

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 AT KNOXVILLE, TENNESSEE

3 _____))
4 UNITED STATES OF AMERICA,)
5 Government,)
6 vs.) Case No. 3:20-cr-21
7 ANMING HU,)
8 Defendant.)
 _____))

9 TRIAL PROCEEDINGS
10 BEFORE THE HONORABLE THOMAS A. VARLAN

11 June 11, 2021
12 Volume V of VII

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FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 THE COURTROOM DEPUTY: All rise.

2 THE COURT: All right. Good morning, everyone.

3 It looks like we're ready to continue, so we'll bring
4 our jury in.

5 (Whereupon the following report of
6 proceedings was had within the presence
7 and hearing of the jury:)

8 THE COURT: All right. Thank you. Everyone
9 may be seated and we'll continue with the
10 cross-examination, Mr. Lomonaco.

09:03AM

11 MR. LOMONACO: Thank you, Your Honor.

12 KUJTIM SADIKU,

13 having been previously duly sworn, was examined and
14 testified further as follows:

15 FURTHER CROSS-EXAMINATION

16 BY MR. LOMONACO:

17 Q. Good morning, Mr. Sadiku.

18 A. Good morning.

19 Q. Let me ask you about the China Initiative.

09:03AM

20 That was a program started by the Department of Justice;
21 is that correct?

22 A. I wouldn't describe it as a program, but it was
23 started by the Department of Justice.

24 Q. It is an initiative. That means they're trying
25 to do something; right?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. Yes, that's true.

2 Q. They're trying to find people that are causing
3 economic espionage in the United States.

4 A. The goal of the China Initiative, as I
5 understand from DOJ, is to disrupt and deter the Chinese
6 government from acquiring science and technology from
7 the United States and transferring it back to China to
8 aid in their Chinese military and Chinese economic
9 development.

09:04AM 10 Q. Okay. So that's the goal. The way they do it
11 is: They go around and take Chinese professors out of
12 universities and basically arrest them for doing --

13 MR. ARROWOOD: Objection, Your Honor.

14 MR. LOMONACO: I didn't ask the question.

15 THE COURT: I need a basis.

16 MR. ARROWOOD: Your Honor, well, first of all,
17 there was no question. It's argumentative, legal
18 conclusions, relevance.

19 THE COURT: I'll sustain the objection. I
09:04AM 20 think he's right.

21 MR. LOMONACO: I hadn't finished my question,
22 but --

23 THE COURT: Well, it was argumentative. So
24 I'll sustain the objection on that basis.

25

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 BY MR. LOMONACO:

2 Q. So it says China. So they're looking for China
3 people; right? China Initiative; is that right?

4 A. No.

5 Q. Okay. Well, let me ask you this: The NASA
6 restriction that you focused on, how many times have you
7 looked at people that were not Chinese under the NASA
8 restriction?

9 A. I don't understand the question.

09:05AM 10 Q. Well, anybody could violate the NASA
11 restriction if we know what it means; right? NASA is
12 not to collaborate with China, but there could be
13 somebody that's non-Chinese doing that; correct?

14 A. Doing what, sir?

15 Q. Collaborating with China on behalf of NASA.

16 A. I don't understand your question.

17 Q. Well, is that because you don't understand the
18 NASA restriction?

19 A. I don't understand your question.

09:05AM 20 Q. Do you understand the NASA restriction?

21 A. I understand that NASA has a restriction
22 with -- restrictions involving the government of China
23 and the Chinese country.

24 Q. But somebody that is not Chinese could
25 collaborate with China and NASA; correct?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. I can't speak to the NASA restriction.

2 Q. Okay. Well, let's see what you can speak to
3 then.

4 Let's talk about this PowerPoint presentation
5 that began on July 18th, 2019. That's the first of
6 three slide shows or PowerPoint presentations; do you
7 recall that?

8 A. Yes. The outline of my notes? Yes.

9 Q. And who was present from the University of
09:06AM 10 Tennessee at that meeting; do you know? Do you
11 remember?

12 A. I don't remember all of them.

13 Q. Well, would Dr. Robert Nobles, the interim vice
14 chancellor for research be one of them?

15 A. Yes.

16 Q. How about David Wickham, deputy general counsel
17 for the University of Tennessee?

18 A. I don't remember the exhaustive list of
19 representatives from UT who attended that meeting.

09:07AM 20 Q. What about John Zomchick?

21 A. It's possible. I just don't remember.

22 Q. Possible? If I showed you the memo with these
23 people's names on it, would that help refresh your
24 memory?

25 A. If it was from that meeting, yes.

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 Q. Okay. What about Jean Mercer; was she there?

2 A. I don't remember, but it's possible.

3 Q. Okay. Now, isn't it a fact, Agent Sadiku, that
4 the PowerPoint presentations were designed and used to
5 get the UT administrators to testify against Anming Hu?

6 A. The purpose of my notes that I documented in a
7 PowerPoint format was to provide information to the
8 University of Tennessee that I had found and also
9 questions that I had.

09:08AM 10 Q. Okay. Well, how about the question I just
11 asked? Was it -- were the purpose of getting the
12 administrators to testify about Dr. Hu?

13 A. No, that was not the purpose.

14 Q. Now, the PowerPoint presentation did, in fact,
15 make a lot of accusations against Dr. Hu. In fact,
16 that's all it was about; correct?

17 A. I don't remember if that was all-encompassing.

18 Q. You don't remember if there was anything else,
19 anything else discussed in the PowerPoint presentations
09:08AM 20 that didn't apply to Dr. Hu?

21 A. I don't remember.

22 Q. You drafted them; right?

23 A. That's correct.

24 Q. Well, let's go to the first PowerPoint
25 presentation, and the first slide or PowerPoint, and

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 let's take a look at it.

2 MR. LOMONACO: Government's 10-0, Your Honor,
3 please.

4 BY MR. LOMONACO:

5 Q. July 18, 2019, University of Tennessee.

6 MR. LOMONACO: Can you page down a little bit
7 more?

8 BY MR. LOMONACO:

9 Q. Email review. Whose emails are they?

09:09AM 10 A. The University of Tennessee.

11 Q. Okay. So the University of Tennessee is
12 writing emails?

13 A. I don't understand your question.

14 Q. Who wrote the emails?

15 A. There were emails from the University of
16 Tennessee.

17 Q. When you have an email, somebody has to send
18 it. The University of Tennessee as a corporation or a
19 school doesn't send an email. Who sent these emails?

09:10AM 20 Whose name was on the From line?

21 A. I don't know because there was a lot of emails.

22 Q. Okay. So you've got some wording here.
23 Methodology, findings, conclusions.

24 MR. LOMONACO: Let's go to the next page.

25

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 BY MR. LOMONACO:

2 Q. Oh, background, Anming Hu. That's not about
3 anybody else, is it?

4 A. This page is not about anyone else.

5 Q. Okay. So you told them that he was a principal
6 investigator. He had DOE, NASA, Rolls Royce contracts.
7 And you start giving a presentation about Anming Hu;
8 correct?

9 A. I didn't tell the university that he was the PI
09:10AM 10 on those contracts listed in my notes. They told me and
11 they provided that information, and this was a summary
12 outline of my notes that I wanted to share with the
13 university.

14 MR. LOMONACO: Okay. Let's go to the next
15 page.

16 BY MR. LOMONACO:

17 Q. Now, this is the first accusation of -- I think
18 it's about three pages down, but it says, "Anming Hu has
19 not reported any of the below to UTK or U.S. agency
09:11AM 20 awarding contract." Now, you told that to the
21 administrators; right?

22 A. That was -- that was based on information that
23 I had collected during the course of the investigation
24 which included information in emails received from the
25 University of Tennessee.

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 Q. So let's look at this. The first thing you
2 said he didn't report was research publications; all
3 right? And then you have in parentheses Exhibit 2a, 3a
4 and 4a. Do you see that?

5 A. Yes.

6 Q. And it's a fact, isn't it, that you told the
7 administrators that you had a big file of exhibits, but
8 you didn't bring them with you, did you?

9 A. I did bring them with me and I gave them to the
10 university the day I met them.

09:12AM

11 Q. Oh, you did?

12 A. I did.

13 Q. So if it says in a memo that they were left
14 back in the office, that's not accurate then; right?

15 A. If I understand the question correctly, the
16 memo was drafted by the Department of Energy, Office of
17 Inspector General, who -- Agent Slatton, who also
18 attended the meeting, and she wrote up the meeting and
19 included a PowerPoint -- this PowerPoint, in fact -- and
20 attached it to her memo and referenced that the exhibits
21 that were provided to the UT, a copy was also maintained
22 at the FBI.

09:12AM

23 Q. All right. Well, let's -- let's go ahead then
24 and say that the first accusation that Anming Hu's
25 affiliated with BTU -- BJUT. In other words, you're

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 saying that Anming Hu never reported any affiliation
2 with BJUT. "Has not reported his affiliation with
3 BJUT." Do you see that right here (indicating)?

4 A. Yes, I see it.

5 Q. 1a. And then you have Exhibit 2a.

6 MR. LOMONACO: Let's go to Exhibit 2a.

7 BY MR. LOMONACO:

8 Q. Do you recognize these as your exhibits?

9 A. Yes, I do.

09:13AM 10 Q. Okay. Now, the little yellow sticker on there,
11 that's from your office or somebody; correct?

12 A. Yes, I put that sticker there.

13 MR. LOMONACO: All right. Let's go to 2a.

14 Your Honor, I'd ask that this be admitted, this
15 Exhibit 49 for the government.

16 MR. ARROWOOD: No objection, Your Honor.

17 THE COURT: All right. So admitted.

18 (Defendant's Exhibit 49 was marked and
19 received into evidence.)

09:14AM 20 BY MR. LOMONACO:

21 Q. All right. There is 2a.

22 Now, according to your PowerPoint presentation
23 and representations to the UT administrators, this was
24 never reported to BJUT -- or excuse me -- to UT;
25 correct?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. I provided this document to show that Anming Hu
2 was affiliated with the Beijing University of
3 Technology --

4 Q. No.

5 A. -- as he listed in his publication.

6 Q. No, I think you presented that document as an
7 exhibit to the statement that Anming Hu didn't report
8 this to the University of Tennessee.

9 Do you want to go back to the slide and look at
09:15AM 10 it again?

11 A. Yes.

12 Q. Do you want to go back?

13 A. Yes.

14 Q. Okay. Number one, "Anming Hu has not reported
15 any of the below to UTK or U.S. agency." Right? Any of
16 the below. Number one, "Research publications.
17 Affiliation with BJUT, Exhibit 2a."

18 MR. LOMONACO: Let's go back to 2a.

19 BY MR. LOMONACO:

09:15AM 20 Q. This, you claim, was not reported to the
21 University of Tennessee; correct?

22 A. The outline that I produced in a PowerPoint
23 presentation was my best understanding of the
24 information I had at the time, and I also had questions
25 that I posed to UT and I used the exhibits to share with

2 Q. Well, have you changed your mind then after
3 you've had time to look at it?

5 Q. Okay. So it doesn't matter how long it took;
6 that was the statement you made, and it's not true, is
7 it?

8 A. That wasn't a statement. It was just a
9 notation that I made in my outline to help me guide me
10 through the exhibits that I needed help understanding
11 from UT, and that was one of the purposes of sharing the
12 exhibits with the university.

13 Q. That was your outline that you showed to the
14 University of Tennessee administrators; right?

16 Q. Okay. And it said he had not reported his
17 affiliation with BJUT, and you used this as an example;
18 correct?

19 A. That -- that point in my outline was not based
20 only on this exhibit.

22 A. It was not based only on this exhibit that I
23 cite.

25 Well, let's go to 2a. Okay. We've got 2a

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 right here. This is an Ultra-Short Pulsed Laser
2 Manufacturing and Surface Processing of Microdevices
3 publication. And the way I interpret it is: He didn't
4 report this to the University of Tennessee. But let's
5 go to his 2018/2019 annual activity report. And let's
6 go down to page 3. Did you ever look at his activity
7 report?

8 A. The document you're referencing on the screen?
9 No, I have not.

09:17AM 10 Q. Well, how do you know if he reported anything
11 to UT if you didn't look at his reporting material?

12 A. It was based on information that the university
13 told me as they testified earlier this week.

14 Q. Well, who told you that?

15 A. The University of Tennessee administrators that
16 I met with.

17 Q. Well, who at the university told you that?

18 A. Those who were in the meeting.

19 Q. Those who were at the meeting?

09:18AM 20 A. Correct.

21 Q. So why are you turning around and telling them
22 then?

23 A. It was -- it was an outline of my notes, and
24 these are the things that I wanted to share with the
25 university because I had questions on observations that

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 I had made, and also there is documents that were
2 included in my outline that UT --

3 Q. We won't belabor that. I'm sorry. You can
4 finish if you want to, but I'll go on to another
5 question here; okay? Did you say everything you wanted
6 to say about that?

7 A. Yes.

8 Q. All right.

9 MR. LOMONACO: Your Honor, can we move --
09:18AM 10 what's the exhibit number on this?

11 MR. PARSONS: 6.

12 MR. LOMONACO: Exhibit 6.

13 THE COURT: Defendant's 6. This is the
14 activity report that's on the screen?

15 MR. LOMONACO: Yes, sir, for '18/'19, Your
16 Honor.

17 THE COURT: It's not in evidence yet?

18 MR. LOMONACO: No.

19 THE COURT: So admitted.

09:18AM 20 (Defendant's Exhibit 6 was marked and received
21 into evidence.)

22 BY MR. LOMONACO:

23 Q. Let's look at No. 3 here, Ultra-Short Pulsed
24 Laser Manufacturing and Surface Processing of
25 Microdevices. Do you see that?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. Yes, I do.

2 Q. Now, that's Exhibit 2 to your presentation that
3 said he didn't report that.

4 And let's go to another presentation here,
5 another exhibit, another thing that supposedly Anming Hu
6 has not reported to any of the below and has not
7 reported to UT.

8 Let's look at No. 2. That's a good one here.
9 "Received funding from China on research conducted for
09:19AM 10 NASA and DOE." Now, how would UT know about that?

11 A. Know about what, sir?

12 Q. That Anming Hu received funding from NASA and
13 DOE.

14 A. Their funding would have to go through the
15 University of Tennessee, Office of Sponsored Programs.

16 Q. Okay. So you've got Exhibit 2b, 3b, and 4b.
17 Do you see that?

18 A. Yes.

19 MR. LOMONACO: All right. Let's go to
09:20AM 20 Exhibit 2b.

21 BY MR. LOMONACO:

22 Q. And will you look at this document and see if
23 you can see anything that talks about NASA or DOE on
24 your exhibit.

25 A. The bullet point in my notes wasn't solely

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 based on this document. It also included information
2 that the university had provided to me at the time,
3 which included Dr. Hu had NASA contracts.

4 Q. So what you're saying here today is that you
5 made a statement that he received funding from China on
6 research conducted for NASA and DOE and you submitted
7 this exhibit as proof of that and it's not on there; is
8 that right?

9 A. That was an exhibit, the publication where
09:21AM 10 Anming Hu listed in the publication that it was funded
11 by a Chinese grant, and I shared that with the
12 university.

13 Q. I'm talking about NASA and DOE, conducted for
14 NASA or DOE. Is there any mention of NASA or DOE at all
15 on this document?

16 A. No.

17 Q. And, in fact, he reported this document, didn't
18 he, in his annual activity report?

19 A. I don't know.

09:21AM 20 MR. LOMONACO: Well, let's go to Exhibit 6, the
21 annual activity report, page 3.

22 BY MR. LOMONACO:

23 Q. It's the same. So you found one publication,
24 saw that some of the funding came from China, and you
25 threw in the words DOE and NASA on your own, didn't you?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. So just so we're clear, this exhibit was not an
2 exhibit that I provided to the University of Tennessee.
3 The exhibits that I provided to the University of
4 Tennessee were the ones that were identified in my
5 outline that I used in the PowerPoint.

6 MR. LOMONACO: 2b.

7 BY MR. LOMONACO:

8 Q. This is the exhibit. This is the exhibit that
9 you accuse him of conducting research for NASA with
09:22AM 10 China money. And if you don't -- if it's not on here,
11 where would it be?

12 A. Where would what be?

13 Q. The proof of the accusation you made that he
14 was receiving funding from China on research conducted
15 for NASA.

16 A. So my understanding at the time was that the
17 University of Tennessee told me that Anming Hu had NASA
18 research, and I had met with the university prior to
19 this meeting and collected information from various
09:23AM 20 sources, which include documents and emails provided by
21 the university, which included some summary
22 translations, and this -- the PowerPoint that I
23 presented was an outline of the notes to the best of my
24 ability to understand the information that I provided to
25 UT. But, again, as I said, I had questions about some

1 of the things that I listed.

2 Q. Why wouldn't you have brought that kind of
3 evidence into this courtroom for this trial?

4 A. What type of evidence?

5 Q. Evidence that Anming had received funding from
6 China on research conducted for NASA.

7 A. I don't understand your question.

8 Q. My question is: That's a pretty strong
9 accusation, and why wouldn't you bring that evidence
10 into trial against Anming Hu if you had any kind of a
11 scintilla of evidence that that is a true statement?

12 A. The notation that I made in my outline was a
13 summary of what information I had at the time and the
14 best understanding of the information that I was
15 provided and collected in the investigation and -- but
16 the information I had up until that point I shared with
17 the university and had questions on some of the
18 information that they also provided.

19 Q. Okay. So you got information. You had it in
20 your hands. You didn't bring it to court. How is the
21 jury supposed to believe that?

22 A. They can look on the screen that's in front of
23 you.

24 Q. Okay. Where does it say NASA or DOE on the
25 screen?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 We'll put 2b, 3b, and 4b on there if you want
2 to. Where does it say NASA? You can page down -- up
3 and down through it if you want to.

4 There is 3b (indicating). What it does show is
5 collaboration with BJUT on publications which the
6 administrators said was normal, even encouraged,
7 international collaboration.

8 And let's look at Exhibit 4, Anming Hu's
9 2015/'16 annual activity report.

09:26AM 10 MR. LOMONACO: Go down to page 2.

11 Your Honor, I'd ask that Exhibit 4 be admitted,
12 annual activity report.

13 THE COURT: So admitted.

14 (Defendant's Exhibit 4 was marked and received
15 into evidence.)

16 MR. LOMONACO: Go down a little bit more.

17 Okay.

18 BY MR. LOMONACO:

19 Q. Do you see right here he reported Journal of
09:26AM 20 Beijing University of Technology (indicating)? But you
21 didn't see that before because you never looked at his
22 annual activity reports; correct?

23 A. Which question do you want me to answer?

24 Q. Do you see where it says that?

25 A. Says what?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 Q. No. 6 on the screen.

2 A. I see No. 6, yes.

3 Q. And the other question was: You never reviewed
4 the annual activity reports?

5 A. I have not seen this document, no.

6 Q. So when you say that he's not reported any of
7 these to UTK, it's a false statement?

8 A. My understanding from the University of
9 Tennessee, in terms of how a researcher discloses his
09:27AM 10 affiliation with a foreign entity, is based on an honor
11 system that's widely accepted in academia and also
12 through a disclosure form that they provided to me.

13 Q. Is that a yes or a no?

14 A. Can you repeat the question?

15 Q. This is a false statement that you put on the
16 report?

17 A. I didn't write this report, the one on the
18 screen.

19 Q. You presented the information to UT; right?

09:27AM 20 A. If you're referencing the PowerPoint that I
21 created as an outline to provide the exhibits to the
22 university, yes.

23 MR. LOMONACO: Okay. Let's go back to the
24 PowerPoint again.

25

1 BY MR. LOMONACO:

2 Q. Okay. So let's just skip down here to No. 2.

3 "Has not reported any of the below to UTK."

4 Again, you're saying somebody else told you
5 that. Why would you go around and tell them again if
6 somebody else told you that when you're in front of them
7 talking about Anming Hu?

8 A. Which red line are you referring to? I don't
9 understand your question.

09:28AM 10 Q. I'm still trying to find out who told you this
11 information from UT.

12 A. Which information?

13 Q. All the information you just said came from UT.
14 Any of it.

15 A. Well, during the course of this investigation,
16 I collected information on my own through online
17 research searches and also through information collected
18 from the university which they provided.

19 Q. Isn't it a fact that through your online
09:29AM 20 research you found anything that looked like it could be
21 incriminating against Anming Hu if you turned the facts
22 around and then you put it in your report knowing that
23 UT wouldn't verify it or check it out themselves;
24 correct?

25 A. This is --

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 MR. ARROWOOD: Your Honor, objection,
2 argumentative.

3 THE COURT: Why don't you just ask another
4 question.

5 MR. LOMONACO: Okay.

6 BY MR. LOMONACO:

7 Q. Let's go to international travel, 2016 to 2019.
8 You told UT in your slide show that he didn't report it.
9 Well, that's pretty interesting, isn't it?

09:29AM 10 International travel. And then you put down 11 times
11 vehicle crossed into Canada from U.S. Did you get that
12 from UT, too?

13 A. That information was obtained through U.S.
14 government sources. It was not obtained through the
15 university.

16 Q. Because it would be pretty outrageous for the
17 jury to believe that UT could tell when he went across
18 the borders; right?

19 A. My understanding is that the university has an
09:30AM 20 international travel requirement policy that I -- I know
21 one exists, but I'm not familiar with it.

22 Q. So let's skip 11 times going back and forth to
23 his family in Canada. And let's go down -- "Flew three
24 times to China from the United States and one time to
25 Japan from the U.S. and he did not report it to UT."

1 That's what your memo says.

2 A. Again, this is not a memo. It's a typed-out
3 outline of the information that I was providing to UT.

4 Q. I stand corrected. It's your slide show, your
5 PowerPoint presentation.

6 Let's go to Exhibit 4.

7 MR. LOMONACO: I think we moved that
8 into -- already; right?

9 THE COURT: Yes.

09:30AM 10 MR. LOMONACO: Thank you.

11 And page 6, Roman numeral IV.

12 BY MR. LOMONACO:

13 Q. And would you agree that the annual activity
14 report is a document from UT?

15 A. I have not seen this report.

16 Q. That's not what I asked you, sir. I asked you:
17 Will you agree that the annual activity report is a UT
18 document?

19 A. It looks like a university document, but I
09:31AM 20 don't see the University of Tennessee on it.

21 MR. LOMONACO: Go to the top page.

22 BY MR. LOMONACO:

23 Q. Faculty Annual Activity Report. Do you know
24 what MABE stands for?

25 A. It's a department at the University of

1 Tennessee.

2 Q. Mechanical department that Professor Hu worked
3 in; right?

4 A. That's correct.

5 Q. Until he was terminated.

6 And then let's go back now to Exhibit 4,
7 page 6, Roman numeral IV. Invited seminars or lectures,
8 No. 2. Do you see where he went to China in May of
9 2016?

09:32AM 10 A. I see there is a location in China that he was
11 invited at, yes.

12 Q. But you've never reviewed the annual activity
13 report and you don't know that that means he went to
14 China in May of 2016, do you?

15 A. Based on this document, no.

16 MR. LOMONACO: Okay. Let's go to Exhibit 5,
17 the 2016/2017 annual activity report. Page 6,
18 Section IV.

19 Could you -- can we move this in as Exhibit 5?

09:33AM 20 THE COURT: The document currently on the
21 screen, the activity report?

22 MR. LOMONACO: Yes, Your Honor.

23 THE COURT: So admitted.

24 (Defendant's Exhibit 5 was marked and received
25 into evidence.)

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 MR. LOMONACO: Page 6, Section V -- IV.

2 Back up a minute. Go up to the top of that
3 section.

4 BY MR. LOMONACO:

5 Q. Do you see where it says Section IV,
6 Professional Outreach?

7 A. Yes.

8 Q. Do you know what that means?

9 A. I do not.

09:33AM 10 Q. So you don't know whether this is where he goes
11 out to other areas or not; right?

12 A. I haven't seen this document and I don't know.

13 Q. Okay. Can you tell me who told you -- which
14 person told you that he did not report his three trips
15 to China?

16 A. What document are you referring to?

17 Q. No, I'm referring to your document where you
18 say he didn't report any of this to UT. Who told you
19 that he didn't report his trips?

09:34AM 20 A. If you're referring to the outline that I
21 created in PowerPoint, I would like to see the slide so
22 I can answer your question better, please.

23 MR. LOMONACO: Show it to him again.

24 BY MR. LOMONACO:

25 Q. Has not reported any of the below -- below,

1 below, below -- international travel, three times to
2 China. You told that to UT.

3 A. Yes, that was information I provided and I
4 obtained through government sources and I provided that
5 to the university.

6 Q. Okay. Did somebody at the university say, "Oh,
7 well, we better look at his activity report to see if
8 you're telling the truth"?

9 A. I don't recall, no.

09:35AM 10 Q. No, they just believed you; right?

11 A. I shared what the government had in its systems
12 with the university.

13 MR. LOMONACO: Okay. So let's go back
14 to -- let's go a little bit lower on this document.

15 No, go up. Let's go to the -- all right.
16 Before you do that, let's look at some more of these
17 accusations here.

18 Slowly go up. Okay. No, the other way. Keep
19 going. Keep going. Keep going. Keep going.

09:36AM 20 BY MR. LOMONACO:

21 Q. Okay. All this is about Anming Hu; correct?
22 It's not about anybody else; right?

23 A. If you're referring to this page, that appears
24 to be correct.

25 Q. I'm referring to your PowerPoint presentation.

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 MR. LOMONACO: Keep going down.

2 BY THE WITNESS:

3 A. All right. What was the question? Can you
4 repeat, please?

5 BY MR. LOMONACO:

6 Q. I didn't ask one.

7 MR. LOMONACO: Did you find where we're
8 looking?

9 MR. PARSONS: Page 14.

09:37AM 10 BY MR. LOMONACO:

11 Q. Okay. Three UTK employees in contact with
12 Aviation Industry Corporation of China. Is this
13 something they told you at UT, also?

14 A. No, this is information that I provided to the
15 university after the FBI translated some of the
16 documents which include emails.

17 Q. Do you have the documents in here?

18 A. The documents that I provided to UT I listed as
19 exhibits on my outline.

09:38AM 20 Q. Isn't it true that only Feng, F-e-n-g, was in
21 contact with AVIC's subsidiary company, not Anming Hu?

22 A. I don't know.

23 Q. You don't know. Okay.

24 And this is a pretty important accusation,
25 isn't it, because AVIC undertakes basic research

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 projects of national defense for China; right?

2 A. The reason I provided this email was that Zhili
3 Feng was Anming Hu's technical project officer at the
4 Department of Energy.

5 Q. And isn't it a fact that the other reason you
6 put it in there is that you wanted to put Anming Hu in
7 with providing information or collaborating with Chinese
8 military companies?

9 A. This information -- I shared this summary
09:39AM 10 translation containing this information with the
11 university because this company located in China is on
12 the Entities List.

13 Q. Yes. But Anming Hu did not affiliate or have
14 contact with this company, did he?

15 A. Based on that summary translation and my bullet
16 point in my outline, no.

17 Q. So when you say Anming Hu is in contact with
18 China and that it relates to the national defense of
19 AVIC, that's not true?

09:39AM 20 A. In my -- in my outline, I included exhibits and
21 I referenced them as you can see on your screen. If I
22 could take a look at that exhibit that I reference in my
23 outline.

24 Q. You're welcome to get it if you want to. Do
25 you have it here?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 MR. LOMONACO: Let's look at -- is it
2 Exhibit 62? 66?

3 BY MR. LOMONACO:

4 Q. Is this one of your exhibits (indicating)?

5 A. It appears to be one of your exhibits. You
6 pulled it up.

7 Q. Well, do you recognize it?

8 A. It's a document dated October 2018, and it
9 looks like a printout from the embassy of China in the
10 United States.

09:41AM

11 Q. But do you recognize it as one of your
12 exhibits?

13 A. One of the exhibits that I provided to the
14 university?

15 Q. Yes.

16 A. It -- this document appears that it was
17 provided to the university by me.

18 Q. And what purpose --

19 MR. LOMONACO: Slow down a minute.

09:41AM

20 BY MR. LOMONACO:

21 Q. For what purpose did you provide it?

22 A. I think it's in my outline and identified with
23 an exhibit that I referenced it from.

24 Q. And does it show any kind of association with
25 Anming Hu and AVIC, the Chinese military company?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. The exhibit that I cited in my PowerPoint that
2 referenced AVIC, this is not the exhibit that I provided
3 to UT. This is another exhibit.

4 Q. Okay. Which exhibit did you provide then?

5 MR. LOMONACO: We got the wrong exhibit. We
6 need to find the right one. Let's go back to his
7 PowerPoint; okay?

8 BY MR. LOMONACO:

9 Q. Exhibit 49; is that the one right there
10 (indicating)?

09:42AM

11 A. Exhibit 49 is an exhibit that I labeled with a
12 Post-it® note and provided to the university. So if
13 it's labeled with a little Post-It note with 49, that
14 would be the document that I referenced in this bullet
15 point in my notes.

16 Q. How about --

17 MR. LOMONACO: What's that?

18 Yeah, let's go back to Exhibit 49 then.

19 BY MR. LOMONACO:

09:43AM

20 Q. Okay. So this is an email from Zhili Feng;
21 right? Copied to him from Joe whoever. And they wanted
22 to purchase equipment.

23 MR. LOMONACO: Let's go up to the next email.

24 BY MR. LOMONACO:

25 Q. And you see that Zhili Feng was involved in

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 trying to get this equipment, and he actually told
2 Anming about it. But there is nothing in here --

3 MR. LOMONACO: Let's keep going down further.

4 BY MR. LOMONACO:

5 Q. -- that shows that Anming Hu is involved in
6 purchasing the equipment. Can you point it out if you
7 think he's involved in purchasing it, or is this what
8 you're talking about?

9 A. My notation in my notes and on the PowerPoint
09:44AM 10 do not state anything about purchasing. It was just
11 that those individuals that I listed were in contact
12 with a company that is on the Entities List.

13 Q. Okay. Where does it show that Anming Hu
14 contacted that company?

15 A. If you scroll up to the email, it will show
16 that he was on the distribution line of that email.

17 Q. It shows that he was sent a copy of the email,
18 but it doesn't show he was in contact with the company,
19 does it?

09:45AM 20 I mean, I can go out and conspire with a
21 company and commit a crime and then send you an email
22 about the crime. Does that make you in contact with
23 that company?

24 A. The reason for my bullet point notation was to
25 advise the university that those individuals that I

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 cited in my bullet point in my notes were in contact
2 with a company that the U.S. government has placed on
3 the Entities List.

4 MR. LOMONACO: Let's go back to the PowerPoint
5 again; okay? And let's go to the part where it talks
6 about the Chinese researcher.

7 BY MR. LOMONACO:

8 Q. Now, this says Anming Hu offered one Chinese
9 researcher from AVIC a position at UTK.

09:47AM 10 A. My notation says, "Offered at least one a
11 position in his UTK group in March 2018." It doesn't
12 list anything about China.

13 Q. Well, we're looking at your PowerPoint right
14 here; right?

15 A. These are the outline of my notes that I
16 produced using a PowerPoint.

17 MR. LOMONACO: No, the other way.

18 BY MR. LOMONACO:

19 Q. UTK email review one. Finding nine. This is a
09:47AM 20 finding that you made about Anming Hu offered one
21 Chinese researcher from AVIC a position at UTK.

22 And let's go up a couple of pages and let's say
23 what you said about AVIC, how bad AVIC is. "AVIC is a
24 state-owned large-scale enterprise managed by the
25 Central Government of China. It is a state-authorized

1 investment institution. The group company has aviation
2 weapons and equipment, military transport, aircraft,
3 helicopters, airborne systems."

4 And then you're saying in the next page down
5 that Professor Hu offered one Chinese researcher from
6 this company a position at the University of Tennessee
7 in Knoxville. There's no other way you can read that,
8 is there? That's what it says. It's in your PowerPoint
9 presentation.

09:48AM 10 A. That is a notation of that page that I made
11 using PowerPoint, yes.

12 Q. Okay. And isn't it true that the person that
13 you're talking about --

14 MR. LOMONACO: Let's find out where it says
15 that about that person; okay?

16 Zang Xu. This is the CV; right? Is this the
17 CV?

18 BY MR. LOMONACO:

19 Q. Oh, this is your exhibit here talking about the
09:49AM 20 individual; right?

21 A. I don't understand your question. If you're
22 referring --

23 Q. Do you see the number 62? That's your sticker;
24 right?

25 A. This is a photocopy of an exhibit that I

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 attached to my notes that I provided to UT.

2 Q. Yes. It's your sticker; right?

3 A. That sticker is on a piece of paper which looks
4 like an email that I attached as an exhibit that I
5 provided to UT. I provided them with the email that
6 they provided to the FBI for summary translation and I
7 provided the summary translation back. If I can -- if
8 you can refer back to my notes --

9 MR. LOMONACO: Can I move Exhibit 53 in, Your
09:49AM 10 Honor, please. He's identified it, I believe.

11 THE COURT: So admitted.

12 MR. ARROWOOD: No objection, Your Honor.

13 (Defendant's Exhibit 53 was marked and
14 received into evidence.)

15 BY MR. LOMONACO:

16 Q. So you say three Chinese Nationals with ties to
17 AVIC and Anming offered one Chinese researcher from AVIC
18 a position at UT. Which researcher is that?

19 A. Which researcher is what?

09:50AM 20 Q. The one that was offered a position at UT. Do
21 you know?

22 A. It would be in one of the exhibits that I
23 provided that were attached to this outline that I
24 provided to the university. So --

25 Q. So is it this one here (indicating)?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. Can you please go back to my outline and pull
2 up the exhibit number that I provided to UT?

3 Q. Which one; 58, 60 or 62?

4 A. I don't know which statement you're referring
5 to.

6 Q. You said pull up your exhibits. Okay. Which
7 exhibit do you want me to pull up?

8 A. Whichever one you want to ask a question to me
9 about.

09:51AM 10 MR. LOMONACO: All right. Let's just go to 62.

11 BY MR. LOMONACO:

12 Q. Exhibit 62. That's the same one we went to;
13 right? So we're talking about Zhenpeng Xu. And it
14 looks like there is a CV attached. There is his CV, 63.
15 I think you referenced one of those in your PowerPoint,
16 also.

17 Let's find his AVIC -- there it is. AVIC
18 Corporation. He was an intern in August to September of
19 2015. Do you see that?

09:52AM 20 A. Yes.

21 Q. Okay. Let's go back up to what you said about
22 him in your PowerPoint.

23 One Chinese researcher from AVIC, a position at
24 UT. That, for giving you the benefit of the doubt, is
25 just an exaggeration of who he really was, isn't it?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. Which -- my notes; is that the question?

2 Q. No, his CV says he was an intern for one month.

3 A. The bullet point that I have notated in the
4 PowerPoint does not reference -- if you're referring to
5 my Exhibit 64 through 64 (sic) that I provided to the
6 university, then that was my notation and my
7 understanding of the documents based on a summary
8 translation of UT documents that they provided to me.
9 So I provided that information back to the university.

09:53AM 10 Q. And this is just one of the PowerPoints that
11 you went through with the University of Tennessee;
12 right?

13 A. I met with the university on many occasions and
14 I didn't always provide exhibits or documents.

15 Q. This was in July of 2018; right?

16 A. (No audible response.)

17 Q. Let's look at August of 2018. You had
18 Dr. Nobles, Dr. Wickham --

19 THE COURT: I think it's 2019. Is that --

09:54AM 20 MR. LOMONACO: Yes. I am sorry, Your Honor.
21 Thank you.

22 MR. PARSONS: This is the second.

23 MR. LOMONACO: The second? Second PowerPoint.

24 BY MR. LOMONACO:

25 Q. Again, you had Jean Mercer, Stacey Patterson,

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 vice-president of research outreach; correct? And Sarah
2 Pruett, research integrity compliance. You were showing
3 these programs to --

4 MR. ARROWOOD: Objection, Your Honor. I don't
5 believe this has been admitted. This is the top page of
6 the PowerPoint that was shown yesterday. We provided
7 the government's exhibits back to the defendant so he
8 could use our exhibits instead of having this cover page
9 on the top.

09:55AM 10 THE COURT: Consistent with yesterday's
11 discussions, if we're going to talk about the August
12 2019 meeting, let's use Government's 10-P.

13 MR. LOMONACO: Okay. I didn't know we were
14 broadcasting that. I'm sorry.

15 BY MR. LOMONACO:

16 Q. And then July, August. There was another one
17 in September; right?

18 A. Another meeting?

19 Q. Yes.

09:55AM 20 A. Yes, I believe so.

21 Q. Okay. Well, I'm not going to go into any more
22 of these. I just want to make sure you can verify to
23 the jury that on three different occasions in a
24 three-month period, you went to UT for the purpose of
25 talking about Anming Hu.

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. If you're speaking between the three dates that
2 I documented in update 1, 2, and 3, yes, it was between
3 July and September 2019.

4 Q. And your purpose was to end up with a result
5 that these people would testify that, oh, had they known
6 he had employment at Beijing University, they would not
7 have let him have a NASA grant; correct?

8 A. The purpose of my meeting was to share
9 information and updates on my investigation.

09:56AM 10 Q. Mr. -- can you answer the question yes or no,
11 and then you can say whatever you want to say?

12 A. What is your question?

13 Q. Was that your purpose or not?

14 A. What is your question?

15 Q. The purpose was to get the UT administrators to
16 start believing your story; correct? Yes or no?

17 A. No.

18 Q. The purpose was to get the UT administrators to
19 say at trial here that had they known about Anming Hu's
09:57AM 20 employment with BJUT, they would not have let him get a
21 NASA grant? Yes or no?

22 A. No.

23 Q. Do you recall -- you sat here through the whole
24 trial. Every one of these witnesses from UT came here
25 and said, "Oh, had I known, we would not have allowed

1 him to have a grant." Right?

2 A. Yes, I heard that.

3 Q. Even Bar-Cohen. Did you go and talk to him two
4 weeks before he showed up on the video screen? Was that
5 you that talked to him?

6 A. I didn't speak to him directly, but I was on
7 the conference call, yes.

8 Q. Okay. That's when you told him he had
9 employment at BJUT?

09:58AM 10 A. I've never spoken to Dr. Bar-Cohen.

11 Q. You were just on the conference call?

12 A. Correct.

13 Q. Who talked to him then?

14 A. The U.S. government prosecutors for trial
15 preparation.

16 Q. Okay. So they talked to Bar-Cohen. And when
17 he said, "I didn't understand the NASA grant at the
18 time" -- did you hear him say that?

19 A. When did he say that? Which --

09:58AM 20 Q. On the screen.

21 A. This week?

22 Q. Yes, yesterday.

23 A. I watched his -- or I listened to his
24 testimony.

25 Q. Did you hear him say that?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. Can you repeat the question?

2 Q. He said he didn't understand the NASA grant at
3 the time, didn't he?

4 A. I don't remember.

5 Q. All right. Just one more line of questioning
6 and I'll try to make it short. I believe you never
7 looked at the conflict of interest form or the policy
8 manual for UT, did you?

9 A. I reviewed the conflict of interest forms that
10 the University of Tennessee provided me.

09:59AM

11 Q. Oh, you did?

12 A. The conflict of interest forms that the
13 university provided? Yes, I looked at those.

14 Q. You looked at PL0256; is that what it is?

15 MR. PARSONS: 125.

16 BY MR. LOMONACO:

17 Q. 125, is that what you looked at?

18 A. As I recall, that is not a conflict of interest
19 form.

09:59AM

20 Q. What is it then?

21 A. The numbers and letters that you're
22 referencing?

23 Q. If you know what it is and you know it's not a
24 conflict of interest form, you must have reviewed it;
25 right?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. I did not review -- I --

2 Q. Did you review this document (indicating)?

3 A. Yes.

4 Q. Okay. What does that say? It's not a conflict
5 of interest form, is it?

6 A. It's the University of Tennessee Systemwide
7 Policy Document F10125 - Conflict of Interests.

8 Q. It is a conflict of interest form, isn't it?
9 Is this what you reviewed?

10:00AM 10 A. A conflict of interest form is different.

11 Q. Sir, is this what you reviewed?

12 A. I have taken a look at this policy, yes.

13 Q. Okay. And you will see --

14 MR. LOMONACO: Let's go to the section we're
15 talking about here.

16 BY MR. LOMONACO:

17 Q. -- that there has to be a certain amount of
18 income from another job before it's a conflict of
19 interest. Did you review that part?

10:00AM 20 A. I don't remember.

21 Q. And did you find out how much income Professor
22 Hu made on his part-time summer job at BJUT?

23 A. I did not.

24 Q. Well, then, how do you know he even violated
25 the conflict of interest?

FURTHER CROSS-EXAMINATION - KUJTIM SADIKU

1 A. I didn't say he violated the conflict of
2 interest.

3 Q. Well, then, he wouldn't have to even put his
4 name or fill out the conflict of interest form, would
5 he, if -- if he didn't have a conflict of interest?

6 A. It's not my decision to determine whether he
7 has a conflict of interest. That's why I provided the
8 information to the University of Tennessee, which they
9 provided the conflict of interest forms.

10:01AM 10 Q. Okay. If you provided information to conflict
11 of Tennessee -- conflict of interest information to the
12 University of Tennessee, then why didn't you provide how
13 much money he made so they could look at the factors to
14 see whether he even really needed to say he had
15 employment outside of UT? Why didn't you do that
16 research? Why didn't you do your homework and get the
17 information that UT really needed to decide whether he
18 was violating the conflict of interest disclosure form?

19 MR. ARROWOOD: Your Honor, objection, compound
10:02AM 20 questions and assumes facts not in evidence.

21 MR. LOMONACO: Let me just ask a short
22 question.

23 THE COURT: Go ahead.

24 BY MR. LOMONACO:

25 Q. Did you know or do you know now when he went to

1 China last?

2 A. I do not.

3 Q. So you don't even know when he was in China and
4 when he was not in China; right?

5 A. I do not. I'm not aware of all of his trips to
6 China, no.

7 Q. Okay. And if you don't know his trips to
8 China, you don't know whether he was going there during
9 the summer vacation or Christmas vacation or right in
10 the middle of the school year, do you?

10:02AM

11 A. When -- based on my understanding of Department
12 of Homeland Security records checks at the border,
13 exiting and entering the United States, individuals are
14 marked and identified of traveling and entering the
15 country.

16 However, if you -- my understanding from DHS is
17 that if you drive from the United States to Canada in a
18 vehicle, your passport isn't marked until you return
19 back to the United States.

10:03AM

20 Q. Sure. I didn't ask you if he went to Canada.
21 That's where his wife and children are.

22 I asked you: You don't know when he went to
23 China, do you? Even if he left Canada from China, it
24 would still show on his passport that he entered and
25 left China, would it not?

REDIRECT EXAMINATION - KUJTIM SADIKU

1 A. I mean, any trips taken from a foreign country
2 to another foreign country are outside the purview of
3 FBI rules and laws, and my authorizations or
4 jurisdiction does not include Canada. So I would not
5 know.

6 Q. My question is: If Professor Hu had gone to
7 Canada and gotten on an airplane and flew to China, when
8 he got off his plane in China, he would give his
9 passport to the Chinese government. They would stamp it
10 entering China; correct?

10:04AM

11 A. I would just assume that's how it happens.
12 I've never been to China.

13 Q. Okay. Are you really qualified to investigate
14 this case?

15 A. I believe I am, yes.

16 Q. Isn't his trips to China rather relevant?

17 A. Relevant to what?

18 Q. I don't know. You listed that he didn't report
19 any.

10:04AM

20 A. There was a bullet point in my PowerPoint that
21 I wanted to advise the university of information that
22 the U.S. government had of his international travel, and
23 I was aware that the university, after they told me that
24 they have requirements for faculty to report
25 international travel.

REDIRECT EXAMINATION - KUJTIM SADIKU

1 MR. LOMONACO: That's all I have, Your Honor.

2 THE COURT: All right. Thank you. Redirect.

3 MR. ARROWOOD: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. ARROWOOD:

6 Q. Okay. You may recall during cross-examination
7 before we got into the PowerPoints defense counsel asked
8 you about whether or not you had uncovered any evidence
9 of payments to the defendant from his work in China; do
10 you recall that?

10:05AM

11 A. Yes, I do.

12 Q. I'd like to show you what's been previously
13 admitted as Government's Exhibit 11-G.

14 MR. ARROWOOD: Please scroll to page 2, about
15 two-thirds of the way down. This right here
16 (indicating). Oh, sorry.

17 Scroll down, please. Okay. Thank you.

18 BY MR. ARROWOOD:

19 Q. Will you please just read that paragraph to
20 yourself. I'm going to ask you what you believe is
21 going on in this communication.

22 A. Okay. I've read it.

23 Q. Okay. Will you please just describe for the
24 jury your understanding -- again, you're not on this
25 communication; is that correct?

10:06AM

REDIRECT EXAMINATION - KUJTIM SADIKU

1 A. That is correct.

2 Q. So with that understanding, will you just
3 describe for the jury what you believe is going on in
4 this paragraph.

5 A. It appears that Anming Hu received 7,250 yuan
6 for an S&T award.

7 Q. And is the individual identified with Chen?

8 A. Yes.

9 Q. Asking for Anming Hu's -- I believe it says
10 Chinese bank account number?

10:06AM

11 A. That is correct.

12 Q. How long have you been an FBI agent?

13 A. 13 years.

14 Q. Approximately how many investigations have you
15 been involved in? Just ballpark.

16 A. At least 100.

17 Q. And in that time, have you ever served a
18 Chinese bank with legal process?

19 A. I have not.

10:07AM

20 Q. Why not?

21 A. The jurisdictions that -- that I enforce do not
22 extend beyond the United States' borders.

23 Q. All right. Thank you.

24 Now we'll take a look at the PowerPoints that
25 was Government's Exhibit 10-0 that you were shown.

4 A. The information included was open-source
5 research that I conducted or other FBI personnel
6 conducted, information received from the university,
7 which included emails that were in a foreign language
8 and summary translations of those emails that I provided
9 back to the university.

12 || A. Yes.

14 A. It was not.

16 || A. It was not.

20 A. "Hired as special professor by BJUT ILE
21 September 2013, Exhibit 1a, Exhibit 1b."

25 Does this appear to be your Exhibit 1a?

1 A. Yes, it does.

2 Q. Do you recognize this document?

3 A. I do.

4 Q. What is this?

5 A. It's a translation of the Beijing University of
6 Technology's website.

7 Q. So did you go on the internet and look at this
8 web page?

9 A. I was provided a printout copy that I reviewed.

10:09AM 10 Q. So someone else did that?

11 A. That's correct.

12 Q. All right. Let's just take a look at this
13 document for just a few moments. And I guess before we
14 do that, is it fair to say this is open source?

15 A. That's correct.

16 Q. And so this is the type of information you
17 would have relied upon in these PowerPoints?

18 A. That's correct.

19 Q. It's highlighted here, but if you would please
10:10AM 20 just read this to the jury.

21 A. "In September 2012, it was selected as the
22 seventh short-term plan for Beijing's overseas
23 high-level talent gathering project. In September 2013,
24 it was selected as the ninth batch of long-term plan,
25 and was hired as a special professor by the Laser

REDIRECT EXAMINATION - KUJTIM SADIKU

1 Engineering Research Institute of Beijing University of
2 Technology."

3 Q. Who does this paragraph relate to?

4 A. Dr. Anming Hu.

5 THE COURT: The Court might be a little
6 confused. Is this part of 10-0 or is this separate,
7 already admitted, or need to be admitted?

8 MR. ARROWOOD: Your Honor, at this time we
9 would move to admit Government's Exhibit 12-A.

10:10AM 10 THE COURT: 12-A. All right. That's what's on
11 the screen then?

12 MR. LOMONACO: This is one of the ones that
13 they objected to us introducing, I believe.

14 THE COURT: I think it's the same that you just
15 showed and talked about, but we'll admit it as
16 Government's 12-A just to make the record clear. Thank
17 you.

18 (Government's Exhibit 12-A was marked and
19 received into evidence.)

10:11AM 20 BY MR. ARROWOOD:

21 Q. What is the date on the top left-hand corner?

22 A. April 23rd, 2019.

23 Q. Do you know what that date reflects?

24 A. That is the date that this search was
25 conducted.

REDIRECT EXAMINATION - KUJTIM SADIKU

1 Q. I'm sorry. When you say a "search," what do
2 you mean?

3 A. The search on the internet that this was
4 identified.

5 MR. ARROWOOD: Please scroll down to page 2.
6 Please scroll down a little bit more. Right there
7 (indicating).

8 BY MR. ARROWOOD:

9 Q. There you can see that there is a picture with
10:11AM 10 an asterisk next to it. Do you see that?

11 A. Yes, I do.

12 Q. What's the name identified with that
13 photograph?

14 A. Hu Mingming.

15 Q. Is that the same name as the defendant?

16 A. It is not.

17 Q. Can you explain that?

18 A. This -- this website was translated using
19 Google Translate and Google Translate is not an accurate
10:12AM 20 depiction of the text that is used to translate.

21 Q. But do you recognize that photograph?

22 A. Yes, I do.

23 Q. Who do you recognize that photograph to be?

24 A. Anming Hu.

25 MR. ARROWOOD: Please scroll down. Next page.

1 Keep going.

2 BY MR. ARROWOOD:

3 Q. There at the very bottom under the heading
4 Contact, do you see an email address?

5 A. Yes, I do.

6 Q. What email address is that?

7 A. Anminghu@bjut.edu.cn.

8 Q. Have you seen that email address before?

9 A. Yes, I have.

10:13AM 10 (Government's Exhibit 3-X was marked for
11 identification.)

12 BY MR. ARROWOOD:

13 Q. I'd like to show you Government's 3-X.
14 Do you recognize this document?

15 A. Yes, I do.

16 MR. ARROWOOD: Scroll down a little bit.

17 BY MR. ARROWOOD:

18 Q. Was this an email obtained from the University
19 of Tennessee?

10:13AM 20 A. That's correct.

21 MR. ARROWOOD: Is this as far down as it goes?

22 Scroll back up. Go a little further. Okay.

23 Stop right there.

24 BY MR. ARROWOOD:

25 Q. Do you see this (indicating)?

REDIRECT EXAMINATION - KUJTIM SADIKU

1 A. Yes.

2 Q. What do you believe is going on here?

3 A. It appears that it's an email sent from email
4 address anminghu@bjut.edu.cn on July 2nd, 2018.

5 Q. Who is the email sent to?

6 A. Anming Hu.

7 MR. ARROWOOD: Scroll back up.

8 BY MR. ARROWOOD:

9 Q. Here. Again, this email, the From line?

10:14AM 10 A. Anming Hu, ahu3@utk.edu.

11 Q. Does it appear that someone with the email
12 address anminghu@bjut.edu.cn forwarded a message to his
13 UTK account? Is that what appears to be going on here?

14 A. Can you scroll back down, please?

15 Q. Right there (indicating).

16 A. Yes, it appears that an email address,
17 anminghu@bjut.edu.cn, forwarded an email to -- can you
18 scroll up? -- forwarded it to ahu3.utk.edu (sic).

19 MR. ARROWOOD: Okay. Please go back to 12-A.

10:15AM 20 THE COURT: Is 3-X in evidence?

21 MR. ARROWOOD: Oh, yes. No, Your Honor. We'd
22 like to move to admit 3-X.

23 THE COURT: So admitted.

24 (Government's Exhibit 3-X was received into
25 evidence.)

1 BY MR. ARROWOOD:

2 Q. Okay. So at the time you did this PowerPoint
3 presentation on July 18, 2019, were you aware of the
4 exhibit here, 1a?

5 A. Yes, that's the exhibit that I provided to the
6 university.

7 Q. And so was the statement on the PowerPoint --

8 MR. ARROWOOD: Can you go to 10-0. Page 2.

9 Page 3.

10:15AM 10 BY MR. ARROWOOD:

11 Q. Was this statement based upon the exhibits that
12 we just showed?

13 A. Yes, it was.

14 MR. ARROWOOD: Okay. Go to the next page,
15 please. Okay. All right.

16 BY MR. ARROWOOD:

17 Q. So here at the top where you say -- will you
18 please read this for the jury?

19 A. "AH has not reported any of the below to UTK or
10:16AM 20 U.S. agency awarding contract."

21 Q. At the time you wrote this particular
22 PowerPoint, was it your understanding that with respect
23 to Roman numeral Ia, what, if anything, did you know
24 about Anming Hu having reported his affiliation with
25 BJUT to the University of Tennessee?

REDIRECT EXAMINATION - KUJTIM SADIKU

1 A. I provided that information to the university
2 and the university provided their conflict of interest
3 forms and said that Anming Hu had not reported his
4 outside -- or had not -- he had not reported his
5 affiliations with BJUT.

6 Q. At the time you wrote this PowerPoint
7 presentation in July 18th of 2019, did you have any
8 information indicating that Anming Hu had reported his
9 affiliation with BJUT to any U.S. agency awarding
10:17AM 10 contracts?

11 A. I don't remember.

12 Q. Okay. Exhibits here, 2a, 3a, and 4a that are
13 identified here, is it fair to say that those exhibits
14 form the basis for the statement right prior to it that
15 Anming Hu was affiliated with BJUT?

16 A. Exhibits 2a, 3a, and 4b were exhibits that I
17 provided to the university that I notated next to that
18 Anming Hu was affiliated with the BJUT. So those are
19 the basis for that notation.

10:17AM 20 Q. Okay. Please look at 1b where you say,
21 "Received funding from China on research conducted for
22 NASA and DOE."

23 Since here we're just really talking about NASA
24 in this case, let's take a look at your Exhibit 4b,
25 which is Government's Exhibit 12-D.

1 It's a little hard to read. I see that the
2 government's exhibit sticker on here may be blocking
3 your view of this tab. But does this appear to be the
4 Exhibit 4b?

5 A. That is correct.

6 Q. Will you please read the title of this.

7 A. "Photonic Nano Manufacturing of
8 High-Performance Energy Devices on Flexible Substrates."

9 MR. ARROWOOD: Scroll down, please. Keep
10:18AM 10 going. It may be on the next page here. Right there.
11 Please stop.

12 BY MR. ARROWOOD:

13 Q. Now, are you a nanotechnology expert?

14 A. I am not.

15 Q. Are you an aerospace engineer?

16 A. I am not.

17 Q. Please take a look at this final -- or
18 paragraph Conclusions. Do you see where it says "nano
19 inks" several different places?

10:19AM 20 A. Yes, I do.

21 MR. ARROWOOD: Scroll back up to the top of the
22 right-hand side.

23 BY MR. ARROWOOD:

24 Q. Did you ever -- or I'm sorry.

25 During the course of your investigation, did

REDIRECT EXAMINATION - KUJTIM SADIKU

1 you ever come to into contact with the word "nano ink"
2 in other contexts?

3 A. Yes, I have.

4 Q. Do you recall what those were?

5 A. Yes, I do.

6 Q. Tell the jury where else you saw that term
7 used.

8 A. My understanding is that Anming Hu was working
9 on NASA research that involved nano ink.

10:19AM 10 Q. And so here in this document, please take a
11 look at the Acknowledgments paragraph. Please read the
12 second sentence. Read it out loud, please.

13 A. "This study was partially supported by the
14 Beijing overseas high-level talents project and a
15 strategic research grant KZ20141000500, B type, of
16 Beijing Natural Science Foundation, People's Republic of
17 China."

18 Q. So what is your understanding when it says,
19 "This study was partially supported by"? What does that
10:20AM 20 mean to you?

21 A. Those entities provided support, funding
22 support to conduct the research.

23 Q. This is research that involved nano inks?

24 A. That's correct.

25 MR. ARROWOOD: Okay. Please go back to

1 Government's Exhibit 10-O.

2 BY MR. ARROWOOD:

3 Q. So, again, though, so heading 1b, at the time
4 that you wrote this PowerPoint, did you believe that he
5 was receiving funding from China on research that was
6 also conducted for NASA?

7 A. Yes.

8 Q. Take a look at 1c. Will you please read that
9 to the jury?

10:21AM 10 A. "China short-term and long-term plan talent
11 member, Exhibit 1a, 1b."

12 Q. We've already looked at 1a and 1b. We can show
13 it up again. I believe it's Government's Exhibit 12-A.

14 MR. ARROWOOD: The highlighted part.

15 BY MR. ARROWOOD:

16 Q. It's the highlighted part on this particular
17 document, but does it indicate, based on this
18 translation, that Anming Hu was selected for the seventh
19 short-term plan for Beijing's overseas high-level talent
10:22AM 20 gathering project?

21 A. Yes, it does.

22 Q. The next sentence, does it indicate that he was
23 selected as a ninth batch of long-term plan?

24 A. Yes, it does.

25 Q. Were these the statements that you relied upon

REDIRECT EXAMINATION - KUJTIM SADIKU

1 in making the assertion in your PowerPoint
2 presentations?

3 A. Yes, they were.

4 MR. ARROWOOD: Let's go back to 10-0. Let's go
5 to page 8. And here (indicating).

6 BY MR. ARROWOOD:

7 Q. Please take a look at this slide. Under
8 subheading number two, will you please read that to the
9 jury.

10:23AM 10 A. "AH submitted," quote, "'precise laser trimming
11 of thick film and strip resistors," end quote, "to the
12 China National University of Defense Technology, NDUT,
13 April 2018, Exhibit 30."

14 Q. This indicates Exhibit 30; is that correct?

15 A. That's correct.

16 Q. I'd like to show you --

17 MR. LOMONACO: What exhibit is that? I'm
18 sorry.

19 MR. ARROWOOD: This is 10-0.

10:23AM 20 (Government's Exhibit 12-L was marked for
21 identification.)

22 BY MR. ARROWOOD:

23 Q. I'd like to show you Government's Exhibit 12-L.

24 MR. ARROWOOD: Your Honor, we move to admit
25 Government's Exhibit 12-L.

REDIRECT EXAMINATION - KUJTIM SADIKU

1 THE COURT: So admitted.

2 (Government's Exhibit 12-L was received into
3 evidence.)

4 BY MR. ARROWOOD:

5 Q. Does this appear to be the Exhibit 30
6 referenced in your PowerPoint?

7 A. Yes. My notation is on the top right of the
8 piece -- of this page.

9 Q. Okay. Do you recognize this?

10:24AM 10 A. I do.

11 Q. Will you explain to the jury what this is.

12 A. This is a summary translation of a document, an
13 email in this case, that I submitted for translation to
14 an FBI linguist.

15 Q. So you didn't do this summary translation;
16 correct?

17 A. I did not.

18 Q. Is this a Google Translate?

19 A. It is not.

10:24AM 20 MR. ARROWOOD: All right. Will you please
21 scroll down.

22 Next page. Or -- I'm sorry -- top of this
23 page.

24 BY MR. ARROWOOD:

25 Q. So this is the next page. I know it's

1 difficult to see, but is this the email that's
2 associated with the summary translation up above?

3 A. Yes, it is.

4 MR. ARROWOOD: Okay. Will you please go back
5 up to page 1.

6 BY MR. ARROWOOD:

7 Q. Will you please read the summary translation to
8 the jury.

9 A. "The email is from the Journal of National
10:25AM 10 University of Defense Technology to Hu Anming. It is to
11 inform Hu Anming that the paper," quote, "'Precise Laser
12 Trimming of Thick Film and Strip Resistors,'" end quote,
13 "was received and is in the process of preliminary
14 review."

15 Q. And did you rely on this summary translation in
16 making the statement in your PowerPoint presentation?

17 A. Yes, I did.

18 MR. ARROWOOD: If you'll please go back to
19 10-0. Again, page 6. Sorry to jump back and forth.

10:25AM 20 Actually, page 8. I'm sorry. One more. Okay. Here we
21 go.

22 BY MR. ARROWOOD:

23 Q. All right. So this is what we were talking
24 about with subheading No. 2; is that correct?

25 A. That is correct.

REDIRECT EXAMINATION - KUJTIM SADIKU

1 Q. Here you make a number of statements about the
2 China National University of Defense Technology
3 underneath No. 2. Do you see that?

4 A. Yes.

5 Q. Do you recall what type of information you
6 would have relied upon in making those types of
7 statements about NDUT?

8 A. The -- the statements that were listed on the
9 Department of Commerce Entities List on why this -- this
10:26AM 10 entity was listed.

11 MR. LOMONACO: Your Honor, I'm going to object
12 to the prosecutor going into areas on the PowerPoint
13 that we never brought up.

14 THE COURT REPORTER: Mr. Lomonaco, can you
15 please speak into the microphone?

16 THE COURT: He's objecting. Go ahead and
17 repeat your objection.

18 MR. LOMONACO: Your Honor, I'm objecting to the
19 government going into areas that we never addressed on
10:26AM 20 cross-examination. They're talking about PowerPoint
21 sections that we didn't say were false and I think
22 they're just trying to bolster their credibility.

23 THE COURT: Response?

24 MR. ARROWOOD: Your Honor, I am, in fact,
25 trying to rehabilitate the witness who was called a liar

1 several times by defense counsel by going through the
2 very document that he entered into evidence.

3 MR. LOMONACO: We didn't accuse him on finding
4 2.

5 THE COURT: Overruled. Go ahead.

6 (Government's Exhibit 12-K was marked for
7 identification.)

8 BY MR. ARROWOOD:

9 Q. I'd like to show you Government's Exhibit 12-K.

10:27AM 10 I know it's a little difficult to read, but do you
11 recognize this?

12 A. I do. It has my notation on the top right
13 corner.

14 Q. What's the exhibit notation here?

15 A. 3b, as in Bravo.

16 Q. Okay. What is this document?

17 A. It is a translation of this website.

18 Q. Does this pertain to the China National
19 University of Defense Technology?

10:28AM 20 A. Yes, it does.

21 Q. Sir, just read that highlighted part right
22 there for the jury, please, or, actually, that whole
23 first sentence is fine.

24 A. "The journal adheres to the purpose of serving
25 national defense and army building and serving the

REDIRECT EXAMINATION - KUJTIM SADIKU

1 development of national defense science and technology."

2 Q. Now, is this referring to the national defense
3 of the United States?

4 A. No, it is not.

5 Q. What country is it referring to?

6 A. China.

7 MR. ARROWOOD: You're going to have to scroll
8 down now. I think it's this long exhibit.

9 Keep going.

10:29AM 10 All right. Stop right there.

11 BY MR. ARROWOOD:

12 Q. Do you recognize this?

13 A. Yes, I do.

14 Q. Earlier you mentioned Department of Commerce, I
15 believe; is that right?

16 A. Yes, I did.

17 Q. Why would you look at the Department of
18 Commerce for information about this?

19 A. I looked at the Department of Commerce to
10:29AM 20 determine if this entity that was -- whether it was
21 listed on the Entities List by the Department of
22 Commerce.

23 Q. Do you know what the Entities List is?

24 A. Yes.

25 Q. Can you just describe it in general terms for

1 the jury.

2 A. It's a list of entities that the United States
3 is restricted from working with.

4 Q. Please read this first paragraph to the jury.

5 A. "Under U.S. Code 744.11(b), Criteria for
6 revising the Entities List of the EAR. Entities --"

7 Q. Stop right there. Do you know what the EAR is?

8 A. I do.

9 Q. Tell the jury what it is.

10:30AM 10 A. It's a document that the Department of Commerce
11 uses to list entities that U.S. companies are restricted
12 from conducting business with.

13 Q. Okay. Please continue.

14 A. "Entities for which there is a reasonable cause
15 to believe, based on specific and articulable facts,
16 have been involved, are involved, or pose a significant
17 risk of being or becoming involved in activities that
18 are contrary to the national security or foreign policy
19 interests of the United States, and those acting on
10:30AM 20 behalf of such persons may be added to the Entity List."

21 Q. Here, can you start reading with this sentence
22 here, "NDUT"?

23 A. (As read) "NUDT was added to the Entities List
24 in February 2015 because of its use of U.S.-origin
25 multicores, boards, and (co)processors to power

1 supercomputers believed to support nuclear explosive
2 simulation and military simulation activities. Since
3 then, NUDT has procured items under the name Hunan
4 Guofang Keji University using four separate, additional
5 addresses not already listed on the Entities List."

6 Q. Okay. Thank you.

7 MR. ARROWOOD: Please go back to Government's
8 Exhibit 10-O. One second. Sorry.

9 Your Honor, at this time, government moves to
10 admit Government's Exhibit 12-K.

11 THE COURT: So admitted.

12 (Government's Exhibit 12-K was received into
13 evidence.)

14 BY MR. ARROWOOD:

15 Q. Okay. Actually, I'd now like to show you a
16 different government's exhibit. Let's do Government's
17 Exhibit 10-P. Do you recognize this?

18 A. Yes.

19 Q. What is this?

20 A. It's the cover page of the outline of my
21 PowerPoint that I presented to the University of
22 Tennessee on August 30th, 2019.

23 MR. ARROWOOD: Let's go to slide six.

24 BY MR. ARROWOOD:

25 Q. Here the second red bullet --

REDIRECT EXAMINATION - KUJTIM SADIKU

1 MR. LOMONACO: Your Honor, again, this is
2 another PowerPoint we didn't even talk about on our
3 cross-examination of this witness.

4 MR. ARROWOOD: That's fine, Your Honor.

5 THE COURT: Okay.

6 MR. ARROWOOD: Just take it down. It's fine.

7 BY MR. ARROWOOD:

8 Q. Now, during the cross-examination, defense
9 counsel mentioned the China Initiative; do you recall
10 that?

10:33AM

11 A. I do.

12 Q. You explained to the jury what your
13 understanding of it was; is that correct?

14 A. (No audible response.)

15 Q. As an FBI special agent, are you generally
16 familiar with FBI policies?

17 A. Ones that pertain to me, yes.

18 Q. Are you aware of any policy of the FBI that
19 obligates you to investigate any particular individuals
20 based on race?

10:33AM

21 A. I do not.

22 Q. National origin?

23 A. No.

24 Q. Or ethnicity?

25 A. No.

RECROSS-EXAMINATION - KUJTIM SADIKU

1 Q. Do you know of any Department of Justice
2 policies that do that?

3 A. I do not.

4 MR. ARROWOOD: No further questions, Your
5 Honor.

6 THE COURT: Thank you. Any recross?

7 MR. LOMONACO: Yes, Your Honor.

8 RECROSS-EXAMINATION

9 BY MR. LOMONACO:

10:34AM 10 Q. Agent Sadiku, you're part of the Department of
11 Justice; correct?

12 A. Correct.

13 Q. The Department of Justice puts out
14 a -- statements all the time on their website; correct?

15 A. I believe so, yes.

16 Q. Do you recall the one called China Initiative?

17 A. If it's dated November 2018, yes, I'm familiar.

18 Q. And we're going to try to locate that and show
19 it to you.

10:35AM 20 Are you saying that you were not part of that
21 initiative to stop China from taking economic property
22 from the United States?

23 A. As a special agent with the FBI working
24 national security matters, that is one of the things
25 that I try to prevent and it is my responsibility to

1 prevent.

2 Q. So you were part of the China Initiative?

3 A. I was never aware that I was part of a China
4 Initiative.

5 Q. Do you recall that the head of the Justice
6 Department instructed U.S. attorneys to investigate
7 because of China taking economic property from the
8 United States?

9 A. The China Initiative began because --

10:36AM 10 Q. Sir, I didn't ask you how it began. I just
11 wanted to know if you were a part of it.

12 A. I don't understand what you mean "part of it".

13 Q. While we're doing this, this Exhibit 31b that
14 you showed --

15 MR. LOMONACO: Can we have that exhibit up? Is
16 it 31b? Is that what it was?

17 MR. PARSONS: 12-K?

18 MR. LOMONACO: Yeah, 12-K.

19 BY MR. LOMONACO:

10:37AM 20 Q. Do you know who wrote this article?

21 A. I don't.

22 Q. Weren't you just accusing Professor Hu of
23 writing it?

24 A. No.

25 Q. Well, why did you even discuss it; do you know?

RECROSS-EXAMINATION - KUJTIM SADIKU

1 A. This was an exhibit that I cited in my notes in
2 a discussion that I had with the University of
3 Tennessee.

4 Q. Okay. And you certainly implied to the jury
5 that it was Professor Hu that wrote this article, didn't
6 you?

7 A. This is not a journal article; it's a
8 translation from the NUDT website.

9 Q. It says Journal Introduction. That's not a
10:38AM 10 journal article?

11 A. It does not appear to be so.

12 Q. Okay. Let me show you an excerpt.

13 MR. LOMONACO: Can you switch me over? Thank
14 you. Got it.

15 I believe that the government agreed that any
16 article from the Department of Justice was authentic.

17 THE COURT: Was what?

18 MR. LOMONACO: Authentic, Your Honor.

19 THE COURT: Are you asking that this document
10:39AM 20 be introduced into evidence? That's a separate
21 question.

22 MR. LOMONACO: Yes, Your Honor, I am.

23 MR. ARROWOOD: I'm sorry. We're trying to get
24 this document. Just give me one second.

25 THE COURT: That's fine.

RECROSS-EXAMINATION - KUJTIM SADIKU

1 (A discussion was had off the record amongst
2 counsel for the government.)

3 MR. ARROWOOD: Your Honor, certainly we do
4 agree that it's authentic. The issue is it contains a
5 number of hearsay statements within it. Ultimately,
6 though, Your Honor, if he wants it to come in, that's
7 fine.

8 THE COURT: I hear no objection.
9 What's the document number again?

10:40AM 10 MR. LOMONACO: Thank you. 146, Your Honor.
11 146.

12 THE COURT: Defendant's 146 admitted without
13 objection.

14 (Defendant's Exhibit 146 was marked and
15 received into evidence.)

16 MR. LOMONACO: So it's being published now?

17 BY MR. LOMONACO:

18 Q. This is a Department of Justice newsletter that
19 the Department of Justice puts out quite often, is it
10:40AM 20 not?

21 A. It appears to be, yes.

22 Q. And this is a year in review. The initial
23 Chinese Initiative was started in 2018, wasn't it?

24 A. That's my understanding, yes.

25 Q. And the goal is to get trade secret theft and

RECROSS-EXAMINATION - KUJTIM SADIKU

1 economic espionage imposed by the Chinese government;
2 correct?

3 A. The goal is to disrupt the Chinese government
4 from attempting to acquire science and technology from
5 the United States.

6 Q. And do you consider yourself part of that
7 project?

8 A. I don't know if it's a project.

9 Q. Well, you called the investigation of Anming Hu
10:41AM 10 an economic espionage investigation, didn't you?

11 A. The investigation that I initiated was
12 classified as an economic espionage because the
13 allegation was that he was a talent member of a foreign
14 government -- in this case, China -- recruitment program
15 that the Chinese government used to acquire U.S.
16 technology, and my goal as an FBI agent was to
17 investigate this allegation to determine if it was true
18 or not.

19 Q. Is it true that you, being an agent in
10:41AM 20 Knoxville, wanted to find a Chinese spy in Knoxville;
21 right? Yes or no?

22 A. As an FBI agent --

23 Q. Yes or no, sir?

24 A. Can you repeat the question?

25 Q. Did you want to find a Chinese spy in

1 Knoxville?

2 A. My job is to find spies, yes.

3 Q. Okay. You did. Okay. And so you went about
4 looking at the professors at UT because they're easy
5 pickings. They're easy to find what they do because
6 they publish everything they do; right? The Chinese
7 scientists publish their work; correct?

8 A. I don't know. I can't speak to what Chinese
9 professors --

10:42AM 10 Q. Well, you searched --

11 A. I don't know.

12 Q. Well, you searched all his publications. You
13 went to the internet and looked at what he did, didn't
14 you?

15 A. I did, yes.

16 Q. Yes. And then you went and talked to him and
17 you asked him if he was part of the One Thousand Talents
18 Program (sic), and he said no, didn't he?

19 A. That's correct.

10:42AM 20 Q. And then you asked him to be a spy for you and
21 go over to China and report back on one of these
22 seminars, and he refused to do it, didn't he?

23 A. I did not ask him to go to China. He told me
24 that he was traveling to China and I asked him to meet
25 for security reasons after he returned.

RECROSS-EXAMINATION - KUJTIM SADIKU

1 Q. Okay. And he said, no, he wasn't going to go
2 any more, and you got mad at him, did you?

3 A. I did not get mad at him.

4 Q. You didn't get mad at him?

5 A. No.

6 Q. What prompted you to follow him around with
7 your team for a year-and-a-half? What evidence, what
8 bit of evidence do you have to show that that
9 investigation was worth that kind of effort?

10:43AM 10 A. We routinely conduct surveillance through our
11 surveillance teams of subjects of FBI investigations.

12 Q. That's not what I asked you. I asked you:
13 What kind of evidence did you have -- what kind of
14 articulable suspicion did you have that he was doing
15 something wrong when you started following him?
16 Anything?

17 A. The allegation that he was a foreign government
18 talent member.

19 Q. The allegation of a foreign government talent
10:43AM 20 member.

21 Well, when you talked to him, he told you he
22 was on a short-term talent plan; right?

23 A. That's correct, yes.

24 Q. And all your investigations revealed that it
25 was, in fact, a short-term talent program.

FURTHER REDIRECT EXAMINATION - KUJTIM SADIKU

1 A. My investigation revealed that he was a
2 short-term talent member.

3 Q. Is that against the law?

4 A. It is not, no.

5 Q. Does that mean that he's stealing secrets?

6 A. No, it does not.

7 Q. Would that be enough for a search warrant if
8 you're trying to get one from a judge?

9 MR. ARROWOOD: Objection, Your Honor. Calls
10 for legal conclusion.

11 THE COURT: I think the question is withdrawn.
12 Thank you.

13 All right. Anything else, Mr. Lomonaco?

14 MR. LOMONACO: Yes, Your Honor.

15 That's fine, Your Honor. We're done.

16 THE COURT: All right. That concludes --

17 MR. ARROWOOD: Your Honor, can I have ten
18 seconds?

19 THE COURT: On this -- what's just been asked?

20 MR. ARROWOOD: On the China Initiative.

21 THE COURT: Since it's -- yes, because it
22 wasn't -- I don't believe it was raised on redirect and
23 it was gone into on recross. So very quickly.

24

25

FURTHER RECROSS-EXAMINATION - KUJTIM SADIKU

1 FURTHER REDIRECT EXAMINATION

2 BY BY MR. ARROWOOD:

3 Q. Here in the highlighted portion on the screen,
4 do you see where it says "Established"?

5 A. Yes.

6 Q. What date does this appear to be established?

7 A. November 2018.

8 Q. When did you open your investigation of the
9 defendant?

10:45AM 10 A. March 2018.

11 MR. ARROWOOD: Nothing further.

12 THE COURT: Thank you. Anything further on
13 that limited question?

14 MR. LOMONACO: Yes.

15 THE COURT: Okay. One question.

16 FURTHER RECROSS-EXAMINATION

17 BY MR. LOMONACO:

18 Q. Did they tell you to go out and start
19 investigating before they announced it?

10:45AM 20 A. Who are you referring to as "they"?

21 Q. Your superiors in Washington.

22 A. The basis of this investigation was based on a
23 lead that I received.

24 THE COURT: Okay.

25 MR. LOMONACO: No further questions.

1 THE COURT: That concludes this witness's
2 testimony. Let me see counsel at side real quick.

3 You can return to counsel table.

4 We don't need this on, Terri.

5 (A discussion was had off the record between
6 the Court and Counsel.)

7 THE COURT: Mr. Arrowood.

8 MR. ARROWOOD: Your Honor, the government
9 rests.

10:46AM 10 THE COURT: All right. Thank you.

11 So the government has concluded its
12 case-in-chief, coincides with when we would normally
13 take our mid morning break. So we're going to do so at
14 this time.

15 Again, you just heard part of the evidence, the
16 government's case-in-chief. As you heard me say at the
17 beginning, the defendant has the absolute right not to
18 present evidence or to present evidence as he sees fit.

19 So I anticipate there will be evidence presented by the
10:46AM 20 defendant in this case. So we're going to take a

21 midmorning break. It takes a little longer. Some of
22 them we cross over from one side presenting proof to the
23 other side. So I'm going to have you take probably at
24 least a 30-minute recess, and if it's longer than that,
25 we'll let you know; how about that? So the jury is

1 excused at this point.

2 (Jurors excused from the courtroom.)

3 THE COURT: Why don't we take a short recess
4 ourselves and the Court will hear any motions. Let's
5 say five 'til come back in.

6 THE COURTROOM DEPUTY: This honorable court
7 stands in recess until 11 o'clock.

8 (A brief recess was taken.)

9 THE COURTROOM DEPUTY: This honorable court is
11:01AM 10 again in session. Please come to order.

11 THE COURT: Thank you, everyone. Please be
12 seated.

13 The Court at this time is prepared to hear any
14 motions under Rule 29 by the defendant.

15 Let me ask -- let me get a feel for how long
16 the parties may anticipate -- we'll start with you,
17 Mr. Lomonaco -- presenting argument. I'm trying to get
18 an idea -- it's 11 o'clock -- whether to send the jury
19 to an early lunch, or, you know, if we're going to go
11:01AM 20 ten minutes, that's one thing; if we're going to go
21 30 minutes, then --

22 MR. LOMONACO: Oh, you mean argument on this,
23 Your Honor?

24 THE COURT: Yes.

25 MR. LOMONACO: 15 minutes, maybe. Less than

1 15.

2 THE COURT: Okay. Well, let's -- all right.
3 Let's start with you and see where we are, and then I'll
4 decide whether -- do you have witnesses lined up ready
5 to go this morning?

6 MR. LOMONACO: Yes, Your Honor.

7 THE COURT: All right. Let's hear from the
8 defendant.

9 MR. LOMONACO: Your Honor, I think we've got
11:02AM 10 the basis of three -- three different reasons why this
11 case should be dismissed. One is the motion we
12 previously filed for vagueness. Through the course of
13 the first part of the trial, it's become apparent that
14 in order for Professor Hu to have deceived or planned to
15 commit wire fraud, he would have to assure the -- UT
16 that NASA -- or the proposer, UT, was in compliance with
17 the NASA restriction. So he would have to have clear
18 knowledge of what the NASA restriction is in order to be
19 able to form a plan to deceive.

11:03AM 20 The government's theory is that he
21 intentionally withheld his employment on the conflict of
22 interest form in order to not let NASA know that he had
23 an affiliation or a job at Beijing University.

24 So all those facts point to having to know what
25 the NASA restriction is in order to form an intent to

1 violate or an intent to create a plan or a scheme to
2 defraud. To defraud NASA, he had to assure the
3 University of Tennessee that they were in compliance
4 with the NASA restriction.

5 So he had to -- that NASA restriction is a
6 component; even though it may not be an element of
7 fraud, it's a component of his ability to form an intent
8 to deceive and an intent to create or commit fraud by
9 deceiving. So that's our first motion.

11:04AM 10 Second motion is some case law that we cited.
11 To be guilty of fraud, the defendant must have had an
12 intent to injure, or at least that NASA was injured.
13 The case law we cited, it's the same case law that is in
14 our first proposed jury instruction, Sixth Circuit case,
15 *United States versus Sadler*, that to be guilty of fraud,
16 there must be a -- his purpose must have been to injure
17 NASA.

18 There is no evidence of injury to NASA at all.
19 In fact, NASA testified that they were satisfied. He
11:05AM 20 met all the milestones and there was no problem. He
21 committed and -- he committed the act of performing his
22 contract, and so NASA was not injured.

23 And the other part of that motion goes along
24 with the -- how do I go to this next page? Just drag it
25 down?

1 MR. PARSONS: Arrows on the keyboard.

2 MR. LOMONACO: Okay. So there is -- there is
3 another theory that if he is going to be convicted of
4 fraud --

5 THE COURT: Let me make sure I'm following. Is
6 this still part of your second argument about NASA not
7 being injured, or is this a third argument?

8 MR. LOMONACO: Well --

9 THE COURT: There is a corollary -- you said
11:06AM 10 there are three arguments that you were making. So I
11 just wanted to --

12 MR. LOMONACO: Yeah, the third argument is they
13 got what they bargained for. And --

14 THE COURT: "They" being who?

15 MR. LOMONACO: NASA got what they wanted, what
16 they paid for, and so NASA was not harmed. I guess that
17 goes along with the argument of NASA being harmed.

18 Let me look at my notes here a minute. I'm
19 sorry, Your Honor.

11:06AM 20 THE COURT: That's fine. That sounds like a
21 corollary argument to your second main argument.

22 MR. LOMONACO: Yes.

23 THE COURT: To be guilty of fraud --

24 MR. LOMONACO: Yes.

25 THE COURT: -- basically NASA wasn't injured;

1 therefore, there couldn't be fraud.

2 MR. LOMONACO: So the third, I guess, is sort
3 of a corollary -- similar to that in that to be guilty
4 of fraud, someone -- something of value has to be taken
5 or they have to be tricked out of something of value.
6 So, again, that is an argument that you can't commit
7 fraud without depriving NASA of some value, something to
8 which it is entitled, and it was entitled to a good
9 research project and it got a good research project.

11:08AM 10 And so it goes back to the intent to defraud the victim,
11 and we don't believe there was any intent to defraud the
12 victim.

13 So that's our arguments, Your Honor. Mainly
14 that NASA was given what they bargained for, they
15 weren't harmed, and the NASA restriction is too vague to
16 be able to form intent to deceive.

17 THE COURT: All right. Let me ask this: The
18 arguments you've made, those three arguments as outlined
19 appear to relate to the wire fraud counts, the fraud
11:08AM 20 counts of the indictment. We also have the false
21 statement counts. Are you moving for directed verdict
22 on those? And if so, what would be that basis?

23 MR. LOMONACO: Well, the first one, vagueness,
24 would account to everything.

25 THE COURT: All right.

1 MR. LOMONACO: Because if he is not able to
2 create an intent in his mind to deceive because he was
3 unaware of what was required of him, then -- then UT
4 sending billing statements based on his assurance would
5 not be fraudulent because he hadn't committed a fraud.
6 So there would be no fraudulent billing.

7 THE COURT: Okay.

8 MR. LOMONACO: The other one is intent to harm
9 may -- we still might have to look at the last three
10 counts of the indictment.

11:09AM

11 THE COURT: So your argument encompasses both
12 the false statements and the wire fraud.

13 MR. LOMONACO: Yes, sir.

14 THE COURT: Okay. Thank you.

15 Response from the government.

16 MR. MC KENZIE: Yes, Your Honor. First, I'll
17 begin --

18 THE COURT: You can come on up to the lectern
19 for responsive argument. Thank you.

11:10AM

20 MR. MC KENZIE: Your Honor, I'll be -- I'll
21 begin by addressing defendant's motion regarding
22 vagueness, and I'll refer, really, to this Court's
23 decision when this issue was raised before trial. And
24 Your Honor was exactly right. The defendant is charged
25 with making false statements to the University of

1 Tennessee about his affiliation and employment, really,
2 with Beijing University of Technology which led the
3 University of Tennessee to falsely certify compliance
4 with these NASA China funding restrictions to NASA for
5 the purpose of receiving funding for the research
6 projects.

7 The wire fraud statute itself is not vague. It
8 is clear. And making materially-false representations
9 which have a tendency to affect whether or not that
11:11AM 10 contract is entered into, that's -- that's not a vague
11 concept.

12 And nothing in the wire fraud charges require
13 that the NASA China funding restriction statute or the
14 regulation that was passed actually have been violated.
15 We just need to show that the defendant had a scheme to
16 defraud NASA by withholding information that he
17 understood to be material, and that he made these
18 material misrepresentations or omissions in furtherance
19 of his scheme. And the evidence has shown that we've
11:12AM 20 done that, Your Honor, or that he did that.

21 And then instead of just reading your opinion
22 back to you, Judge, I just refer you to the rest of the
23 opinion that you have already decided.

24 In terms of the actual harm in the intent, Your
25 Honor, what NASA bargained for was a contract with an

1 individual at a U.S. university that did not violate the
2 NASA China funding restrictions. They were not provided
3 all of the information they needed to determine whether
4 or not they had actually -- in order to determine
5 whether or not they ought to enter into that contract
6 because the defendant withheld information from them.

7 More than one witness testified from NASA -- or
8 at least one witness testified from NASA that if the
9 information of the defendant's employment at the Beijing
10 University of Technology had come up, even after the
11 contract was signed, while these payments were being
12 processed, that they would have stopped the process of
13 the -- processing of those payments. They could have
14 backed out of this contract at any time because that
15 sort of withholding of information was something that
16 the university needed in order to make that
17 determination.

18 So the university did not get what they
19 bargained for. And they also parted with money, too.

20 So it's not like there is no money or property loss
21 from -- from the university. But they were tricked in
22 this scheme into entering a contract that, by their own
23 regulations, they could not enter. That's -- that's the
24 harm here, Your Honor.

25 THE COURT: You're talking about NASA now?

1 MR. MC KENZIE: Yes. And JPL, the Jet
2 Propulsion Lab on the first contract.

3 Should I address the overall weight and
4 sufficiency of the evidence in a light --

5 THE COURT: Go ahead.

6 MR. MC KENZIE: -- most favorable to the
7 government?

8 Your Honor, if you look at the evidence in a
9 light most favorable to the government and resolve all
10 contradictions of evidence in a light most favorable to
11 the government, a reasonable juror could look at the
12 evidence and determine beyond a reasonable doubt that
13 the defendant is guilty. They could determine that he
14 engaged in a years-long scheme to defraud NASA through
15 omissions, various omissions. It wasn't any one
16 particular omission, and that's obviously not what the
17 elements require, but that he engaged in a scheme to
18 defraud that, based on the representations made to the
19 defendant from Dr. Bar-Cohen, from Drew Haswell, and
20 from other sources that came out in evidence, that the
21 defendant clearly understood that his employment at the
22 Beijing University of Technology was a material factor
23 in determining whether or not NASA would grant a
24 contract or JPL would grant a contract or whether or not
25 the University of Tennessee would even submit the

1 contract proposal, let alone sign the contract and bill
2 JPL or bill NASA; that the defendant understood that it
3 was material and that he omitted it on purpose. It
4 wasn't an accident or a mistake, and that he caused
5 other people at the University of Tennessee to then send
6 these fraudulent statements in the forms of a -- two
7 emails containing contracts signed by the University of
8 Tennessee and then an electronic submission for payment
9 electronically across state lines in furtherance of his
10 fraud, and that he did all of this with the intent to
11 defraud NASA, to get money to get access to a -- to a
12 contract that he otherwise would not have had -- would
13 not have been given to him.

14 Similarly, for the false statements, Your
15 Honor, very similar theory. He understood that
16 these -- by withholding this evidence or withholding his
17 knowledge of his employment with Beijing University of
18 Technology from -- from employees at the University of
19 Tennessee, it caused the University of Tennessee
20 employees, who we heard from, the accountants, to send
21 these invoices to affirm that the terms of the
22 conditions of the contract were being met when
23 they -- reviewing the circumstantial evidence in a light
24 most favorable to the government, those terms were not
25 being met and that they were submitted to the Jet

1 Propulsion Lab which was funded and operated on behalf
2 of NASA, which is a part of the executive branch of the
3 government. And so we've met the elements of 1001 as
4 well.

5 And with that, Your Honor, unless you have any
6 questions, I'll sit down.

7 THE COURT: Not at this time.

8 Mr. Lomonaco, any response?

9 MR. LOMONACO: Just briefly, Your Honor. I
11:17AM 10 believe the way we should look at this is that whether
11 Anming Hu had to disclose on the conflict of interest
12 form with UT was an element of the fraud and the
13 material representation that had to be made in order to
14 commit fraud, and the question is: Is there enough
15 evidence to let that go to the jury? They have not
16 shown through any evidence, according to their own
17 documents and their own testimony, that Anming Hu was
18 required to list a part-time Beijing University job on
19 the form, the conflict of interest form. They have no
11:18AM 20 evidence of whether his job was significant enough to
21 pass the policy requirements or the handbook
22 requirements. They have no information of how long he
23 worked there, what time of the year they worked there.
24 All they do is say he's got this job and he's got a
25 laboratory and he's got students, but they don't explain

1 whether it qualifies as a conflict of interest for UT.

2 So I believe that beyond a reasonable doubt
3 they have to show that it has to be a material
4 representation and beyond a reasonable doubt they would
5 have to show that he had to put his part-time job on
6 that disclosure form, and they have not done it. There
7 is nothing to even raise the question of what -- sending
8 the case to the jury. There is not enough evidence, and
9 I think that's the Court's responsibility when there is
11:19AM 10 not enough evidence to not let it go to a jury and get
11 them confused because Your Honor can decide what the
12 evidence is and what it isn't and whether they have
13 reached the threshold of, you know, beyond a reasonable
14 doubt, and I think they have to do that in order to make
15 this case.

16 THE COURT: All right. Brief response to that.

17 MR. MC KENZIE: Sure, Your Honor.

18 To be clear, it's not the government's theory
19 that the one and only place where the defendant was
11:20AM 20 required to make a disclosure is on these employment
21 forms. These are one piece of the evidence, one area in
22 which the defendant withheld critical -- critical
23 information from the university which -- where he should
24 have disclosed it, but it's not the only piece of
25 evidence, obviously, Your Honor.

1 The applications process to the -- to NASA and
2 JPL was another opportunity for the defendant to
3 disclose his employment with Beijing University of
4 Technology.

5 He should have -- when he was applying for
6 these and was asked about -- to provide a biosketch, the
7 evidence in the light most favorable to the government,
8 based on the circumstantial evidence, will show that he
9 knew that he should have disclosed it, and that's
11:21AM 10 another -- that's another place.

11 I won't list every single place where
12 the -- where the government -- right now because you've
13 sat through the trial -- alleges that the defendant
14 should have told somebody, but it's not just one
15 occasion; it was repeated. It was a scheme over years
16 where he had multiple opportunities.

17 And I know that the defense has -- a defendant
18 has a job to do, and he's arguing about and
19 characterizing the defendant's employment at BJUT one
11:21AM 20 way.

21 But, remember, Your Honor, for purposes of this
22 motion certainly, the evidence should be construed in a
23 light most favorable to the government. And the
24 government points out that despite those assertions, we
25 have entered into evidence multiple exhibits from nearly

1 every year of the -- every month of the calendar showing
2 that the defendant had employment in January, October,
3 September, times that were not during the summer, times
4 that were more than -- more than two weeks.

5 We've entered into evidence resumes for the
6 defendant where he describes himself as an employee at
7 the Beijing University of Technology. We've entered
8 into evidence documents to say that he was the
9 chairperson of a lab. We have invoices showing that he
10 was overseeing a lab. We have emails showing that he
11 was overseeing and supervising students at the Beijing
12 University of Technology.

13 Now, a reasonable juror looking at all of those
14 pieces of evidence could conclude that this was more
15 than a two-week, part-time summer employment, that it
16 amounted to a -- again, and the argument that we'll make
17 and a reasonable juror could conclude would be that he
18 was involved with this university as an employee for
19 many years, and it would be obvious that he would have
20 to -- would have to disclose that and that he withheld
21 it, Your Honor, and that's -- that's the argument.

22 THE COURT: All right. Thank you. I think I
23 understand the parties' positions adequately. I'll take
24 the motion under advisement at this point in time and
25 we'll continue forward with the case.

1 Mr. Lomonaco, your first witness, short, long?

2 MR. LOMONACO: Short, Your Honor.

3 THE COURT: All right. Well, let's go
4 with -- if they're here, then we'll bring the jury in
5 and at least hear one witness and maybe two, depending
6 on -- and then we'll take our lunch break.

7 So let's take about a five-minute recess until
8 the jury gets back here and then we'll start with
9 defendant's case.

11:24AM 10 THE COURTROOM DEPUTY: All rise.

11 (A brief recess was taken.)

12 THE COURTROOM DEPUTY: This honorable court is
13 now in session.

14 THE COURT: Thank you. We'll bring our jury
15 in.

16 (Whereupon the following report of
17 proceedings was had within the presence
18 and hearing of the jury:)

19 THE COURT: All right. Thank you. Everyone
11:31AM 20 please be seated and the courtroom deputy will swear in
21 defendant's first witness.

22 (The witness was thereupon duly sworn.)

23 THE COURTROOM DEPUTY: Have a seat, please.
24 Will you state and spell your name for the record.

25 THE WITNESS: My full name is Sudarsanam Suresh

DIRECT EXAMINATION - SUDARSANAM SURESH BABU

1 Babu. I can spell it again, S-u-d-a-r-s-a-n-a-m. That
2 is Sudarsanam. Suresh, S-u-r-e-s-h. And last name
3 Babu, B-a-b-u.

4 THE COURTROOM DEPUTY: Thank you.

5 SUDARSANAM SURESH BABU,

6 having been first duly sworn, was examined and testified
7 as follows:

8 DIRECT EXAMINATION

9 BY MR. LOMONACO:

11:32AM 10 Q. Good morning, Dr. Babu.

11 A. Good morning.

12 Q. That last name is easier to pronounce than the
13 rest of it; so can I call you Dr. Babu?

14 A. That's okay, sir.

15 Q. Dr. Babu, can you explain to the jury where you
16 work.

17 A. I am a professor at the University of
18 Tennessee, and I'm in the Mechanical, Aerospace, and
19 Biomechanical Engineering. I work as the governess
11:32AM 20 chair of advanced manufacturing, sir.

21 Q. Thank you.

22 And how long have you been at the University of
23 Tennessee?

24 A. I joined the University of Tennessee in 2013 of
25 July, sir.

DIRECT EXAMINATION - SUDARSANAM SURESH BABU

1 Q. And what kind of work do you work on over
2 there?

3 A. I do teach students, sir, and also I do
4 research in advanced manufacturing in collaboration with
5 national laboratories and industries and my colleagues
6 at the University of Tennessee.

7 Q. Now that you've mentioned students, do you have
8 students from different countries?

9 A. Yes, sir.

11:33AM 10 Q. Are those visiting students or both -- or
11 regular students?

12 A. Regular students and sometimes visiting people
13 who come as a collaboration we have as a part of UT.

14 Q. And that is something that is common at UT;
15 correct?

16 A. Yes, sir.

17 Q. Dr. Babu, you have met through your work
18 Professor Hu; correct?

19 A. That's correct, sir.

11:33AM 20 Q. Approximately how long ago?

21 A. I believe -- I don't know the exact date, but
22 2013, probably, sir.

23 Q. And how often would you interact with Dr. Babu?

24 A. Professor Anming Hu is my colleague. He's a
25 part of our department. So often we have group faculty

DIRECT EXAMINATION - SUDARSANAM SURESH BABU

1 meetings. There I meet with him, and many times we talk
2 about scientific topics with reference to material
3 science that's in my area.

4 Q. Did he always seem to pay attention to his
5 work?

6 A. Yes, sir, based on my interactions with him.
7 So we had extensive discussions about brazing and
8 material science and -- yes, sir.

9 Q. And we heard a little bit during this trial
10 about Professor Bar-Cohen. Do you know him?

11:34AM

11 A. Yes, sir. So through an email introduction it
12 came, and I don't exactly know the date. And so we were
13 interested in looking at brazing applications for
14 looking at how the similar materials joining. And I'm
15 not a brazing expert. I'm more on the transformations.
16 So I did introduce Professor Anming Hu to Dr. Bar-Cohen,
17 sir.

18 Q. And you and Dr. Hu put together a proposal
19 for -- with JPL?

11:35AM

20 A. It was led by Dr. Bar-Cohen. So I was a
21 collaborator with him, sir, and also Professor Anming
22 Hu.

23 Q. And you suggested that Dr. Bar-Cohen involve
24 Professor Hu, too; correct?

25 A. That's correct, sir, because of his expertise

1 in brazing and reducing the melting point of brazing
2 materials. That's very important for aspects of the
3 particular research on the technical side of it, yes,
4 sir.

5 Q. In your working with Professor Hu, did you ever
6 see him working for somebody in China?

7 A. No, sir. My most interactions always been
8 technical side. I never discuss or anything else.
9 Mostly on the technical side, I don't know.

11:35AM 10 Q. Have you ever been asked about the NASA
11 restriction?

12 A. No, sir.

13 Q. And never asked to make any assurances --

14 A. So --

15 Q. -- about the NASA restriction?

16 A. -- as a part of the proposal, because the PI,
17 we have -- there are people that are taking care of that
18 and we have to file in the proposal where I give my
19 information to them. So that's all part of the proposal
11:36AM 20 system, sir.

21 Q. Through your working with Professor Hu, have
22 you had an opportunity to form an opinion as to his
23 reputation for truthfulness and honesty?

24 A. Yes, sir. He is my colleague and I work with
25 him, and he's very well-established in nano brazing, and

CROSS-EXAMINATION - SUDARSANAM SURESH BABU

1 based on citation index, you can see he's one of the
2 leading researchers. And I always worked with him. I
3 never had second thoughts about working with him.

4 Q. So what is your opinion about his truthfulness
5 and honesty?

6 A. Based on my interaction, he is truthful, sir.

7 MR. LOMONACO: Thank you, Dr. Babu. I'll pass
8 the witness.

9 THE WITNESS: Thank you very much.

11:37AM 10 THE COURT: Thank you.

11 Cross-examination?

12 MR. MC KENZIE: Yes.

13 CROSS-EXAMINATION

14 BY MR. MC KENZIE:

15 Q. Good morning, Dr. Babu.

16 A. Good morning, sir.

17 Q. You mentioned that you work as a professor at
18 the University of Tennessee; is that right?

19 A. That's correct, sir.

11:37AM 20 Q. Do you also work with Oak Ridge National
21 Laboratory?

22 A. Yes, sir. My job description at UT in the
23 governess chair, I do work with Oak Ridge National
24 Laboratory.

25 Q. You're also employed with a national

1 review -- what's the name of the organization that
2 you're also employed with?

3 A. So that's the recent one, sir, from last year.
4 I've been elected to be a member of National Science
5 Board, sir.

6 Q. Congratulations.

7 Will you please explain to the jury what the
8 National Science Board is.

9 A. So, the National Science Board oversees the
11:38AM 10 National Science Foundation on all activities, and it's
11 a body of 25 people. I'm humbled and honored to be part
12 of that NSB, National Science Board. And we also
13 develop scientific and technical policies which informs
14 and provides input to the president and Congress.
15 That's what I do.

16 Q. Once you received that position, you reported
17 that new employment to the University of Tennessee;
18 correct?

19 A. That's correct, sir.

11:38AM 20 Q. You filled out on their statement of outside
21 interests form that you had this outside employment;
22 correct?

23 A. Yes, sir. That's correct, sir.

24 Q. Now, you mentioned that you worked with -- with
25 Dr. Hu professionally; correct?

CROSS-EXAMINATION - SUDARSANAM SURESH BABU

1 A. That's correct, sir.

2 Q. And that you interacted with him in a
3 professional capacity --

4 A. That's correct, sir.

5 Q. -- correct?

6 And in that professional capacity, you
7 interacted with him; correct?

8 A. That is correct.

9 Q. And based on those interactions, you formed an
10 opinion as to whether he was truthful; correct?
11:39AM

11 A. That is correct, sir.

12 Q. And based on your interactions with him, you
13 formed the opinion that he is a truthful person?

14 A. Based on my interactions professionally, yes,
15 correct, sir.

16 Q. During your professional interactions with the
17 defendant, did he inform you that he was a chair
18 professor at a laser institute laboratory in Beijing?

19 A. I don't recollect him telling me, sir.

11:39AM 20 Q. Did he tell you that he was a professor at the
21 Institute of Laser Engineering at Beijing University of
22 Technology?

23 A. No, sir.

24 Q. Did he tell you that he had received research
25 funding from the Beijing National Science Foundation?

1 A. No, sir.

2 Q. Did he tell you that through the course of his
3 employment at the Beijing University of Technology, he
4 worked as a principal investigator on a project funded
5 by the National Natural Science Foundation of China?

6 A. No, sir.

7 Q. During your work at the University of
8 Tennessee, you conduct scientific research --

9 A. That's correct, sir.

11:40AM 10 Q. -- is that right?

11 A. That's correct.

12 Q. And feel free to brag. You're very good at
13 what you do; is that right?

14 A. I'm usually a humble person, sir. I don't want
15 to brag because it is done by colleagues and students.
16 I can brag about my students if you want me to.

17 Q. Okay. Well, I appreciate that, sir.

18 But in the course of your research,
19 occasionally you have invented something new and then
11:41AM 20 patented that new research; right?

21 A. Yes, indeed, sir.

22 Q. And you're familiar with the patent process;
23 correct?

24 A. Since we work in a team science, I've been
25 educated many times how to do that, sir, yes.

1 Q. And through your employment with the University
2 of Tennessee, you understand that when you patent a new
3 technology, you need to disclose that to the university?

4 A. That's correct, sir.

5 Q. You understand that that's part of the policy;
6 right?

7 A. That's correct, sir.

8 Q. Getting back to the repu- -- the knowledge of
9 the reputation of Anming Hu for being honest. In
10 forming that opinion of him, did he tell you that he
11 possessed a patent in China that he did not report to
12 the University of Tennessee?

13 A. He didn't say anything to me on that, sir.

14 Q. Did he tell you that in a Chinese patent, he
15 listed the fact that the applicant was Beijing
16 University of Technology?

17 A. No, sir.

18 Q. Did he tell you that he had more than one
19 patent in China?

20 A. No, sir.

21 Q. Did he tell you that he had at least five
22 patents in China which listed Beijing University of
23 Technology which he did not report to the University of
24 Tennessee?

25 A. He did not say that, sir.

REDIRECT EXAMINATION - SUDARSANAM SURESH BABU

1 Q. Did he tell you that he managed a laboratory
2 budget for a laboratory in China?

3 A. No, sir.

4 Q. Did he tell you that he did not report his
5 employment with Beijing University of Technology to the
6 University of Tennessee?

7 A. No, sir.

8 Q. Is it fair to say that none of those factors
9 which I just asked you about went into the calculation
11:43AM 10 as to whether or not, in your opinion, Anming Hu is
11 honest?

12 A. This is information I don't know, sir. Based
13 on my professional experience what I working, that's
14 what most of my opinions are.

15 Q. Once again, thank you. Congratulations on your
16 new job, and thank you very much.

17 THE COURT: Redirect?

18 MR. LOMONACO: Yes, Your Honor.

19 REDIRECT EXAMINATION

11:43AM 20 BY MR. LOMONACO:

21 Q. Dr. Babu, was he required to tell you what he
22 did on his summer or time off?

23 A. He doesn't need to tell me or anybody about
24 what he does in summer, sir.

25 Q. Did you tell him what you do during your

1 summertime?

2 A. If I have done travel, the proposal requires my
3 input. I communicated many times I'm going on a travel,
4 that I've done that, sir.

5 Q. Do you know whether the questions that the
6 prosecutor asked you are even accurate questions?

7 A. I don't know, sir.

8 MR. LOMONACO: If we can have one moment, Your
9 Honor, please.

11:44AM 10 BY MR. LOMONACO:

11 Q. You said that you had NSF experience in
12 proposals, grant applications with NSF?

13 A. That's correct, sir.

14 Q. And you have in the past made NSF proposals
15 with Professor Hu; correct?

16 A. That's correct, sir.

17 Q. And NSS has -- NFS (sic) has a section --

18 MR. MC KENZIE: Your Honor, this
19 is -- objection. This is outside the scope of cross.

11:45AM 20 MR. LOMONACO: No, it's not. He's talking
21 about what was disclosed and what wasn't disclosed, Your
22 Honor.

23 THE COURT: I'll allow it. I'll give a little
24 leeway under the rules and allow recross as necessary.

25

1 BY MR. LOMONACO:

2 Q. The NSF applications require disclosing
3 collaborations; correct?

4 A. That's correct, sir.

5 Q. Have you ever known Professor Hu not to
6 disclose his collaborations on an NSF application?

7 A. I don't know, sir.

8 Q. Let me show you what is marked 23-A.

9 MR. LOMONACO: I think it's already in.

11:46AM 10 MR. PARSONS: Yes.

11 BY MR. LOMONACO:

12 Q. Do you see this on the screen? It says
13 Invention Disclosures.

14 A. Yes.

15 Q. And are you familiar with the fact that
16 Professor Hu disclosed invention disclosures through the
17 Research Foundation? The Research Foundation is a
18 branch of UT, is it not, that can possibly make some
19 money on inventions?

11:46AM 20 A. I can only say what the research disclosure is
21 doing is: We have a process for filing invention
22 disclosure that is through the foundation. So that's
23 what I see here.

24 Q. Okay.

25 MR. LOMONACO: Oh, wait a minute. Back up. Is

REDIRECT EXAMINATION - SUDARSANAM SURESH BABU

1 this a different one?

2 MR. PARSONS: That's the same one.

3 MR. LOMONACO: Okay. Go to the next one.

4 BY MR. LOMONACO:

5 Q. This is a disclosure here. Do you see the last
6 signature that's in yellow down there, A. Hu?

7 A. Sir, I see on my screen Energy & Environmental
8 Science, a paper. That's what I see. "High-rate
9 in-plane micro-supercapacitors scribed onto photo..."

11:47AM 10 Is that what you're talking about, sir?

11 Q. Yes.

12 MR. LOMONACO: Scroll up a little bit.

13 BY MR. LOMONACO:

14 Q. Does this appear to be an invention or a
15 patent?

16 A. This is a research paper as I see it, sir.

17 Q. Okay.

18 MR. LOMONACO: Go to the next one. Keep going.

19 BY MR. LOMONACO:

11:47AM 20 Q. Does this show an article written by Professor
21 Hu?

22 A. That's correct, sir. It's listed out A. Hu as
23 the last author. It's published in Energy &
24 Environmental Science, 2016. That's correct, sir.

25 MR. LOMONACO: Okay. Dr. Babu, thank you very

REDIRECT EXAMINATION - SUDARSANAM SURESH BABU

1 much for coming down. Appreciate it.

2 THE WITNESS: Thank you very much, sir.

3 THE COURT: Thank you.

4 Recross?

5 MR. MC KENZIE: Nothing, Your Honor.

6 THE COURT: All right. Thank you. This
7 witness may be excused.

8 THE WITNESS: Thank you very much.

9 THE COURT: Anybody else you have this morning
11:48AM 10 or -- do we need to go ahead and take a lunch break?

11 MR. LOMONACO: I have -- I have one other
12 witness.

13 THE COURT: I mean, here in the courtroom?

14 MR. LOMONACO: Yes.

15 THE COURT: Well, let's go ahead and start and
16 see how far we get.

17 MR. LOMONACO: Okay. I call Professor Hu.

18 (The witness was thereupon duly sworn.)

19 THE COURTROOM DEPUTY: State and spell your
11:49AM 20 name.

21 THE WITNESS: Okay. My name is Anming Hu.

22 Last name is Hu, H-u. H, as in high, u, as in U.S.A.

23

24

25

DIRECT EXAMINATION - ANMING HU

1 ANMING HU,
2 having been first duly sworn, was examined and testified
3 as follows:

4 DIRECT EXAMINATION

5 BY MR. LOMONACO:

6 Q. And, Professor Hu, if you say a word or two
7 that I don't understand, I might stop you and ask you to
8 repeat it; okay?

9 A. Okay.

11:49AM 10 Q. And if you don't understand a question, can you
11 ask me to repeat it or ask the prosecutors to repeat it;
12 okay?

13 A. Sure.

14 Q. Okay. Sir, can you give us a little of your
15 background as far as your family is concerned.

16 A. Yes. Yeah. Once I first get my first Ph.D. in
17 China, I go to Europe to do my postdoctoral research.
18 And then I go to Japan for postdoctoral -- also the
19 postdoctoral international research.

11:50AM 20 Then I go to the -- Canada in 2004 for my
21 second Ph.D. study. So first the Ph.D. is on physics.
22 Second Ph.D. is on the laser physics. Similar, but
23 different.

24 And then I got -- my family follow me to come
25 to Canada in the beginning of my international student.

1 Then I immigrated to Canada.

2 So, 2007, I become the Canadian citizen. So at
3 that time -- so all my family members, we change to the
4 Canadian passport. So Chinese passport is expired. So
5 that means it's invalid.

6 Okay. So I -- once I get my second Ph.D. in
7 the University of Waterloo, I work the University of
8 Waterloo for about five years. So at that time when I
9 work there at the University of Waterloo, I work there
10 as a research assistant professor. So mainly I have the
11 little percent or part of teaching, but mainly focus on
12 research. So at that time I build an international
13 collaboration with the China side. Especially from this
14 trial, you already listen several times BJUT, the
15 Beijing University of Technology. So I build my
16 relationship from when I worked at the University of
17 Waterloo.

18 So then after five years of working in the
19 Waterloo, I was offered by University of Tennessee and
20 become an assistant professor in the University at
21 Waterloo -- I mean, at Tennessee. I'm sorry. Yeah.

22 Q. Let me stop you there. And when did you come
23 to the University of Tennessee?

24 A. November 2013.

25 Q. And you've heard the government accuse or talk

DIRECT EXAMINATION - ANMING HU

1 about your connection to Beijing University of
2 Technology.

3 A. Yes. I was shocked.

4 Q. You were what? I'm sorry?

5 A. I was shocked.

6 Q. Shocked?

7 A. Yes.

8 Q. Okay. Well, you know you had a connection;
9 correct?

11:52AM 10 A. Yes.

11 Q. And what kind of connection was it?
12 What -- did you have a contract and when did that start
13 and so on?

14 A. Yeah. So, as you imagine, I have the
15 short-term plan when I start from University of
16 Waterloo. I keep that. So reason is, you know, I'm not
17 got education in U.S., but international
18 collaboration --

19 Q. I'm sorry, sir. You're not getting what in the
11:52AM 20 U.S.?

21 A. What? Can you repeat it? I'm sorry.

22 Q. You said you're not getting something in the
23 U.S. I didn't understand what you --

24 A. Oh, I didn't get the education because I get my
25 first degree in China and the second Ph.D. degree in

1 Canada.

2 Q. Maybe if you speak a little slower, I can
3 understand. I'm sorry. It's probably my ears more than
4 anything. So, go ahead.

5 A. So because of the -- because as a professor, so
6 social connections is very, very important. You know,
7 the -- mainly the job is to secure the funding. The
8 funding is needed to build the trusting. So my support
9 at the --

11:53AM 10 Q. Build what, sir?

11 A. Funding trust.

12 Q. Trust?

13 THE COURT: Funding trust.

14 BY THE WITNESS:

15 A. We need a -- so what I mean is: When I know
16 that only I write the proposal, I still needed to build
17 the trust from the sponsor, like, you know, NASA, like
18 Dr. Bar-Cohen. So, like the -- I mean, in the --

19 THE COURT REPORTER: I did not understand what
11:53AM 20 you said.

21 BY THE WITNESS:

22 A. So I'll continue there. Like Dr. Bar-Cohen, so
23 I don't know him. So Dr. Babu already -- I mean, he
24 testify. He introduce me to know Dr. Bar-Cohen.

25

1 BY MR. LOMONACO:

2 Q. Okay. Before we get into that, let's talk a
3 little bit more about your short-term talent plan.

4 A. Okay.

5 Q. When did you first enter into an agreement with
6 Beijing UT?

7 A. Well, that would be at the beginning of
8 2000- -- I applied for 2012 and I got that. It should
9 be summer of 2013. At that time, after I applied for
10 the UT but I haven't got the offer, that's almost -- I
11 still have to come here and get the interview for that,
12 but BJUT offer me the short-term plan.

13 Q. Okay. Well, tell us about that short-term
14 plan. What does it require you to do and what does it
15 not require you to do, and is it a contract for a term
16 of years, or tell us about that?

17 A. Yeah. Okay. So the short-term plan is that --
18 what I understand is mainly to encourage international
19 exchange to -- that give me the chance to visit the
20 Beijing University of Technology. But I don't think
21 that's the -- as my own understanding is not a regular
22 employment, but I do have a contract. They provided me
23 and I signed that. That one is to see I have worked at
24 least two months per year for the -- as the condition,
25 but I never been there two months; okay?

11:54AM

11:55AM

DIRECT EXAMINATION - ANMING HU

1 So, but they not see, you know, the contract is
2 invalid. The reason is: I understand the contract is
3 so -- even at least some of the items, but that's
4 dependent on myself, whether I want to commit to that or
5 not.

6 So with this kind of the short-term plan or the
7 contract, I can decide the Beijing, I can decide when I
8 go there, how long I stay there. That's basically my
9 understanding. I think that's basically is -- acute
11:56AM 10 reason is, you know, as the professor, I need to build
11 those international collaborations.

12 Q. Have you been able to bring students back from
13 China to help UT through that contract and through that
14 program?

15 A. Yeah, I bring the full visiting students from
16 BJUT to UTK. About another eight visiting students to
17 come to the University of Tennessee. And because of
18 those the -- especially in the first two years, because
19 I can secure those international students, I also serve
11:57AM 20 the department as the graduate student recruit
21 committee. So department not only want I, myself, have
22 the Chinese visiting students, also ask me to help my
23 colleagues to help them to recruit the Chinese student
24 come to the UTK.

25 Q. So you say that the plan says you should work

DIRECT EXAMINATION - ANMING HU

1 two months out of the year; is that correct?

2 A. Yeah, no more than -- or no less than -- I'm
3 sorry -- no less than two months per year.

4 Q. Okay. And let me show you what --

5 MR. LOMONACO: If I can use the overhead.

6 THE COURTROOM DEPUTY: Is this an admitted
7 exhibit?

8 MR. LOMONACO: No, this hasn't been admitted as
9 an exhibit.

11:58AM 10 THE COURTROOM DEPUTY: Thank you.

11 BY MR. LOMONACO:

12 Q. Do you recognize this document, sir?

13 A. Yes.

14 Q. What is it?

15 A. This one is -- I just listed the list of my
16 trips to China. It's only the list to China. I have
17 other international travel, but this one is -- only list
18 the Chinese -- I mean, I travel back to China.

19 Q. And where did you get this information?

11:58AM 20 A. That's from my passport, because as a Canadian,
21 we are wanting to visit China, I have to apply for visa.
22 It's just as most of the people if you are U.S. citizen.
23 So Chinese government will not allow other citizenship.
24 So even I'm there, I was a Chinese, I still needed
25 a -- needed to get the visa.

DIRECT EXAMINATION - ANMING HU

1 So those are -- basically entered on the left
2 is from the passport. When I entered, they will stamp
3 that date on the left.

4 Q. Is this the column you're talking about here
5 (indicating)?

6 A. Yeah.

7 Q. So the first entry shows that you went to --
8 THE COURT: The jury is not seeing this yet.
9 Is this something you seek to introduce?

11:59AM 10 MR. LOMONACO: I would, Your Honor. We have
11 not -- we'll have to make it -- sort of an electronic
12 copy of it, but --

13 THE COURT: Well, let's first see if there's --

14 MR. MC KENZIE: May I just ask one or two
15 foundational questions before I decide whether to
16 object?

17 THE COURT: Go ahead.

18 MR. MC KENZIE: Two questions.

19 THE COURT: Go ahead.

11:59AM 20 MR. MC KENZIE: The question is problematic. I
21 don't know if you want me to stand at the lectern or do
22 it from here.

23 THE COURT: From there.

24 MR. MC KENZIE: The document that we're looking
25 at right now, did you create this?

DIRECT EXAMINATION - ANMING HU

1 THE WITNESS: Yes, I created for the government
2 to check.

3 MR. MC KENZIE: And these dates you checked
4 with your passport?

5 THE WITNESS: Those is the -- yes, I have the
6 passport copy for my immigration record. So I still
7 keep that. As the last one, the line, you see I don't
8 have the exact date, but I know last time I visited
9 China is December 2017. That's in the passport. You
10 can check.

12:00PM

11 MR. MC KENZIE: So this is really what I need
12 to know, Your Honor, is --

13 THE WITNESS: Yeah.

14 MR. MC KENZIE: -- that last line that said
15 "December, I have no copy of this trip," that's your
16 statement?

17 THE WITNESS: That's my statement.

18 MR. MC KENZIE: I have no objection, Your
19 Honor.

12:00PM

20 THE COURT: We'll admit this as Defendant's --

21 MR. PARSONS: 147.

22 MR. LOMONACO: 147.

23 THE COURT: 147. Thank you.

24 (Defendant's Exhibit 147 was marked and
25 received into evidence.)

DIRECT EXAMINATION - ANMING HU

1 BY MR. LOMONACO:

2 Q. So, just briefly, Dr. Hu, let's go through --
3 the December 28th, 2013, you arrived in China; is that
4 right?

5 A. Well, enter. I mean, I arrived there
6 December 18th, left on --

7 Q. Over here (indicating)?

8 A. Yeah.

9 Q. December 18th, 2013, you arrived?

12:01PM 10 A. Yes.

11 Q. And you left on the 28th? That's about ten
12 days.

13 A. Yes.

14 Q. And so on. The next entry would be 2014, 5/6.

15 A. That's May 6. May.

16 Q. You left May --

17 A. 24.

18 Q. -- 24.

19 Now, was school going on during this time?

12:01PM 20 A. No, this is the -- for the summer semester. I
21 don't teach during the summer. If I teach, I get
22 compensation from UTK.

23 Q. Okay. So that was 12 days.

24 And then the next year was June 19th, 2015, and
25 you left July 4th, 2015, for 14 days. And you got these

DIRECT EXAMINATION - ANMING HU

1 figures off your passport; correct?

2 A. Yes.

3 Q. All right. And who has your passport now?

4 A. The FBI agent hold my passport.

5 Q. Okay. So, 2016 -- excuse me -- 2015 in
6 December 16th, then you came back -- or you left China
7 December 30th of 2015. So you actually went there twice
8 that time?

9 A. Yes.

12:02PM 10 Q. Okay. And was that during -- were you working
11 BJUT -- or excuse me. Were you working at the
12 University of Tennessee teaching school at that time?

13 A. For which? Could you repeat that? For which
14 one are you asking?

15 Q. Well, okay. You've got this one here
16 (indicating) --

17 A. Yes.

18 Q. -- 6/19?

19 A. Yeah.

12:03PM 20 Q. And that's summer; right?

21 A. Yeah.

22 Q. And then you've got 12/16. Was the semester
23 over when you left?

24 A. Usually for the regular professor, once our
25 work -- class is over, examination is over, we think

DIRECT EXAMINATION - ANMING HU

1 that we are -- our holiday start. Usually my class
2 finish end of November each fall.

3 Q. So that was the normal course of business for
4 the professors at UT?

5 A. Yeah. So for those -- that it's a holiday, I
6 mean. It's definitely a holiday.

7 Q. Christmas holiday?

8 A. Yes.

9 Q. All right. And then 2016 --

12:03PM 10 A. Yeah.

11 Q. -- in May, you went to China and you came back
12 in June for a total of 14 days?

13 A. Yeah.

14 Q. And then in 2016, in -- August 30th, and
15 September 4th, you came back. Now, is that -- when does
16 the school year start?

17 A. School year usually start the middle of August.
18 But on this one, that school year, only the P8, that
19 didn't start, but this one is for their conference four
12:04PM 20 days. I reported to the UTK.

21 Q. So this was a conference that UTK knew you were
22 going to?

23 A. Yeah. So all those are combined. They're
24 almost combined, my staying at BJUT and international
25 conference in China. It does not mean all those dates I

DIRECT EXAMINATION - ANMING HU

1 stay in the BJUT. It's also combined Chinese -- or
2 conference in China.

3 Q. Did you report your conferences?

4 A. I report most of my international conference to
5 BJUT through my annual faculty activity report.

6 Q. And we've made that an exhibit to this case;
7 correct?

8 A. Yes.

9 Q. All right. So now tell us about the way that
10 you got paid for working at BJUT.

12:05PM

11 A. Yeah. So if you check the government -- the
12 government exhibit for the short-term contract, they see
13 I get either monthly pay, and the second sentence is
14 real payment dependent on the actual time I worked in
15 BJUT or stayed in the BJUT. That means -- you know,
16 that don't means if I not go, I get a payment. That's
17 not like that.

18 Q. Okay. So how much did you normally get paid
19 per year going there?

12:05PM

20 A. That is either -- that depended on each trip.
21 That will count up how many days they will pay me. That
22 is something like the Chinese yuan, let's see go to the
23 U.S. dollar around 1,000 U.S. dollar, that's covered my
24 local expense.

25 Q. Did you ever get paid more than \$5,000 in any

1 particular year?

2 A. No, that's the reason I don't think I reach the
3 number I needed to re- -- to disclose my outside
4 interests.

5 Q. So you never made \$5,000 or more in one year?

6 A. It's only their -- I think less total,
7 probably. Everything together is close, but still
8 lower. I think my either annual -- or UTK outside
9 interest disclose -- I mean, limitation is 10,000 and
10 not 5,000.

12:06PM

11 Q. Okay. So where did you learn that; did you
12 learn that or did you study that when you first came to
13 BJUT?

14 A. Yeah. So when I arrived there at UTK, I arrive
15 in November. That's not regular faculty start. So I
16 already miss because the U.S. government that year is
17 closed. Yeah.

18 So November I arrived at UTK. I go to the
19 non-regular training. What it means is because I not
20 a -- usually it's before the semester start. Then we
21 have the one-week training. That's what I mention as
22 regular training. I only get their three-days --

12:07PM

23 three-afternoon training, and they're not training me
24 how to -- how I should fill in their outside interest
25 form. They're giving me the form, ask me, "Anming, you

DIRECT EXAMINATION - ANMING HU

1 have to fill in this." And their people there are
2 lecturers because as they're training, they have their
3 conversation, like the retire -- retire insurance. They
4 keep talking, and ask us, "You have to finish," and to
5 hand it in.

6 If you check, my first year, 2013, that form is
7 by the handwriting. Later on, it's electronic. We fill
8 in online. So they just did not tell me, you know, but
9 they do give me their faculty handbook. They not give
10 me their FI1125 conflict of interest policy.

12:08PM

11 Q. Did the faculty handbook say basically the same
12 thing as the policy?

13 A. Very similar. The conflict of interest policy
14 is applied for older employee. So means that either
15 faculty and the staff. But the faculty handbook is only
16 applied for faculty, not for staff.

17 Q. And when you came here and realized that you
18 did not have to report that, what you're saying is:
19 Because the level of income didn't rise to the amount in
20 the handbook --

12:09PM

21 A. Yeah.

22 Q. -- did you leave that blank so you could
23 deceive NASA two years later?

24 A. Yeah. So let's -- I'll answer your question.
25 I want to add to it a little bit.

DIRECT EXAMINATION - ANMING HU

1 Q. Do you understand my question, though?

2 A. Yeah.

3 Q. I mean, did you intentionally leave it blank to
4 trick NASA?

5 A. Certainly not. I wanted to see as -- the
6 faculty, we -- annual review, we have two components.

7 So the conflict of interest is one. I get this form --
8 two form simultaneously. So what they call their
9 outside conflict of interest form, that's the --

12:09PM 10 government check that, and another one is: We just --
11 it's called their faculty annual activity report. There
12 is -- the two is equally.

13 So the difference is: Conflict of interest is
14 what I understand they focus on your income, but the
15 annual review activity report is relative to my
16 performance; so teaching, research, service. That's
17 they have the ten-page -- that's the main reason I
18 report -- I think I didn't hide because I report my
19 collaborations with the students, all the papers, all
12:10PM 20 the Chinese activity through the annual review on the
21 activity report.

22 Q. Now, some of those we've introduced as
23 exhibits; correct?

24 A. Correct.

25 Q. And in there you actually name BJUT as --

DIRECT EXAMINATION - ANMING HU

1 A. That's right. That's the reason I
2 don't -- honestly, UTK and NASA, never any people ask
3 me, "Anming, what's your really relationship with BJUT?"
4 Nobody. But I report every year.

5 Q. Let's talk about the NSF --

6 A. Yeah.

7 Q. -- programs -- proposals for the National
8 Science Foundation. Did you ever fill out a proposal
9 for the National Science Foundation?

12:11PM 10 A. Yes.

11 Q. Do they have a particular question in there
12 about disclosures and collaborations?

13 A. Yes. I --

14 Q. I'm sorry. Did you fill that out correctly?

15 A. I think I do.

16 Q. You think you did?

17 A. Yeah.

18 Q. But what did you disclose, if you can remember?

19 A. Yeah. So I write there totally about 16 NSF
12:11PM 20 proposals. For only in the first two years they ask
21 biosketch. I list my collaboration and other
22 affiliations and also students I supervise in my
23 biosketch. That's for first two years when they ask
24 this.

25 And from 2016 through NSF, they say all the

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1 applications has to be disclosed, their collaboration
2 and other affiliations in a separate form or table. I
3 each time list the BJUT, both my collaborator,
4 professor, and also student I supervised. That's show I
5 affiliated with BJUT.

6 Q. Were you trying to hide BJUT from the
7 university at any time?

8 A. No. When I ask, I will. So if anyone can see
9 that they already ask me, I not answer or I answer
10 fully, I would think I would do first statement.

12:12PM

11 Q. So let me ask you now about the NASA grants.

12 A. Yes.

13 Q. Okay. When was the first time you filled out
14 or tried to obtain a NASA grant for the University of
15 Tennessee?

16 A. The first time is in February 2015.

17 Q. '15?

18 A. Yeah, at that time, I write the first NASA
19 proposal for the SBIR. That's called the small business
20 initiative program. That's our first time to try to
21 get the -- wanted to get the funding from NASA.

12:13PM

22 Q. All right. So when you did this proposal, did
23 you -- did you get the -- did you get the grant?

24 A. No.

25 Q. All right. Was there a NASA assurance letter

1 attached?

2 A. No.

3 Q. Okay. And you've heard what the NASA assurance
4 letter is, and you've seen those before?

5 A. Yes, first time is when I worked with
6 Dr. Bar-Cohen and Dr. Babu for the JPL proposal, and
7 Drew Haswell, yeah, he first time tell me that China
8 Assurance.

9 Q. That's the first time you knew about the China
10 Assurance?

12:14PM

11 A. Yes, that's the reason, you know, I provided a
12 letter of collaboration with the Chinese professor to
13 their UTK and also Dr. Bar-Cohen.

14 Q. Why did you provide that?

15 A. Because, you know, for their program, we really
16 needed some, too. I think, I already collaborated with
17 BJUT. I know that. Especially when I working on this
18 proposal, at that time in Hefei, I just was in BJUT, in
19 the lab, I see they have the facility. So I see, can we
20 either get free access. You know, I'm a developer of
21 NASA grant, if I -- can you just draft a letter for me,
22 you know, if I get the NASA grant, you can provide there
23 free access and to Hefei to -- for the NASA research.
24 That's the reason that they send the letter to me.

12:14PM

25 Q. Now, you've heard Dr. Babu testify --

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1 A. Yes.

2 Q. -- that you never disclosed your affiliation
3 with BJUT or your part-time job with BJUT; correct?

4 A. No, I don't have the duty to report to
5 Dr. Babu. Dr. Babu is my colleague. He's my mentor,
6 but he's not official my supervisor. My supervisor is
7 the department head, Dr. Matthew Mench.

8 So annual review report is a report to
9 Dr. Matthew Mench. He know this. And also the student,
10 each time I invited visiting students, Dr. Matthew Mench
11 as the department head, he have to agree. He have to
12 write the invite letter, not me.

13 Q. So who is Matthew Mench?

14 A. Dr. Matthew Mench is my department head.

15 Q. Head of the department at UT?

16 A. Yeah, we only -- as faculty, we only have one
17 direct supervisor is the department head. I needed to
18 report those to the department head.

19 Q. So what did you report to him?

12:16PM 20 A. I report to him -- it's through the faculty
21 annual activity report. This report. We mentioned
22 that. And also the outside disclosure form
23 simultaneously to him.

24 Q. And so in those forms, did you mention BJUT?

25 A. Yes. And either as we mentioned through their

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1 publications, through their visiting students, through
2 the conference, and also through -- especially through
3 their visiting students' CV. The students' CV, they
4 list me as their supervisor in BJUT.

5 Q. Did anybody ever ask you at any time to report
6 your summer employment?

7 A. No. That's why I say I reported the BJUT
8 collaboration to UTK and to the Dr. -- or no. I mean,
9 and to Dr. Bar-Cohen because through the letter of
10 collaboration meant I'm either -- I'm committed to UTK.
11 Nobody ask me what's your real relation with -- as I
12 mentioned before, what's your real relation with the
13 BJUT.

14 And as I also mentioned, those sort of
15 collaborations is encouraged by the U.S. university
16 because we do their fundamental research and open
17 science.

18 Q. So let's talk --

19 MR. LOMONACO: Any time you want to break for
12:17PM 20 lunch, Judge, is okay with me, but --

21 THE COURT: Okay. Well, let's go ahead and
22 take a lunch break right now. Let's come back at 1:35.
23 The jury is excused for lunch.

24 THE COURTROOM DEPUTY: All rise.

25 (Jurors excused from the courtroom.)

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1 THE COURT: Everybody sit down just a moment.

2 I just need to reverify one thing for the
3 record. Professor Hu, you recall at our final pretrial
4 conference that I discussed with you the defendant's
5 right to testify or not to testify, and that, you know,
6 certainly, not anticipating you consulting with your
7 counsel, but ultimately the right rests with you. You
8 understand that?

9 THE DEFENDANT: I understand it's my right to
12:19PM 10 choose whether I want to testify or I don't want to
11 testify.

12 THE COURT: And you have chosen --

13 THE DEFENDANT: I choose to testify. Even I
14 ask the court to provide the interpreter for me, but I
15 think if the prosecutor asking me slowly, probably I
16 can.

17 THE COURT: That's all I wanted to double-check
18 on. Thank you.

19 THE DEFENDANT: Thank you.

12:19PM 20 THE COURT: All right. We'll stand in recess.

21 THE COURTROOM DEPUTY: All rise. This
22 honorable court stands in recess until 1:35.

23 (A luncheon recess was taken at 12:19 p.m.)

24

25

AFTERNOON SESSION

(P.M.)

THE COURTROOM DEPUTY: All rise.

THE COURT: We'll bring our jury in.

(Whereupon the following report of
proceedings was had within the presence
and hearing of the jury:)

THE COURT: Thank you. Everyone may be seated.

Mr. Lomonaco, please continue.

MR. LOMONACO: Thank you, Your Honor.

BY MR. LOMONACO:

Q. Good afternoon, Professor.

A. Thank you.

Q. Let's talk about the first time you heard about
the NASA grant; okay? Can you tell the jury when that
was.

A. Yeah. So 2000- -- February 2015, or January of
2015.

Q. Okay. And how did you find out about it?

A. You mean when I started to apply for NASA
grant; right?

Q. I'm sorry. The NASA restriction or the --

A. Oh, NASA restriction. Sorry. So NASA
restriction is January 2016.

Q. Okay. And how did that come about? How did

1 that happen?

2 A. Yeah, that happened as -- we are prepare the
3 NASA/JPL proposal with Dr. Bar-Cohen and Dr. Babu. So
4 when we talk about all the technical side, and then Drew
5 Haswell emailed, see -- yeah, "Anming, we already get
6 all the other items ready. So I know we have
7 the" -- "we need to get the China Assurance" -- no --
8 "letter of commitment and the China Assurance letter
9 ready and I'll be sending it." So that's for me the
01:43PM 10 first time to heard of the China Assurance.

11 Q. So what did that mean to you when you heard it?

12 A. I thought the -- I really don't know what
13 means, the China Assurance, because that's, for me, the
14 first time to hear. So I answered it that --

15 Q. Excuse me. Before you go any further, had you
16 had any training on the NASA restriction or the --

17 A. No.

18 Q. -- China Assurance?

19 A. No, China restriction, China Assurance, I never
01:43PM 20 heard of that.

21 Q. Okay. So tell us what you thought it meant.

22 A. So when I heard these words, I get confused.
23 But at that time, you know, we still working on the
24 proposal side because of the -- both Bar-Cohen and me,
25 we still fine-tune for the technical side. We hear

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1 this, and he say, "Oh, we need to gather the assurance,
2 China Assurance." I ask Dr. Bar-Cohen to use the
3 Chinese facility. So, you know, in an email what the
4 answer is, if I remember clearly, "Are you talk about
5 that Hefei facilities?"

6 Q. Who did you say that to?

7 A. I said it to Drew Haswell.

8 Q. Okay. And who is Drew Haswell?

9 A. Drew Haswell is the staff working in their UTK
01:44PM 10 research office and help me to submit the NASA proposal.

11 Q. Okay. So when you said, "Do you mean about
12 this Hefei" -- what was the question you asked?

13 A. Yeah. What I ask is, "Does you mean they're
14 asking me to assure their China facilities, Hefei
15 facilities?" The real words, I cannot remember.

16 Q. Okay. And what did he say?

17 A. He say -- no, no, no. I mean, I reply this --
18 I still have a second sentence -- is there -- I have a
19 letter of collaboration and this letter of collaboration
01:45PM 20 addresses that because I go to their letter of
21 collaboration from Hefei National Lab on June the 6th.
22 So I forwarded that to Dr. Bar-Cohen. But Dr. Bar-Cohen
23 before -- I mean, you already heard. Dr. Bar-Cohen told
24 me I -- he would not use the letter of collaboration.
25 But I --

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1 Q. So what did that mean to you then?

2 A. That -- that really confuse me. Even, you
3 know, he explain to me. But he no explain to me too
4 much. You know, we have a lot of email conversation, I
5 mean, at that time. Happen almost every day several
6 email. He do tell me that he would not use the letter
7 of collaboration for the NASA grant. But --

8 Q. Okay. Excuse me a minute.

9 MR. LOMONACO: Could we have --

01:46PM 10 MR. PARSONS: Exhibit 68.

11 MR. LOMONACO: -- Exhibit 68? Could we put it
12 on our screen, switch over?

13 BY MR. LOMONACO:

14 Q. This what has already been marked Exhibit 68.
15 Is this the -- is this the email that you sent to Curtis
16 Hill?

17 A. No, but it's to their Drew Haswell.

18 Q. I'm sorry. Drew Hoffman?

19 A. Drew Haswell.

01:46PM 20 THE COURT: Can you scroll down or scroll up so
21 we can see the --

22 MR. LOMONACO: Yes.

23 BY THE WITNESS:

24 A. Yes.

25

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1 BY MR. LOMONACO:

2 Q. So this is from you?

3 A. This is an email where I reply. It's also
4 copied to Dr. Bar-Cohen.

5 Q. So let's go down to the one from Drew
6 Haswell --

7 A. Yes.

8 Q. -- because that one came first; right?

9 A. Yes.

01:46PM 10 Q. And he says here --

11 MR. LOMONACO: Keep going. Keep going.

12 BY MR. LOMONACO:

13 Q. Okay. So here on -- he writes, "After these
14 two items have been addressed, I believe we will be
15 ready to obtain a letter of commitment..." Now, those
16 two items were basically budget issues; right?

17 A. Those -- those two is their letter of
18 commitment. I know this. This means that UTK commit
19 with the program. But UTK China Assurance document,
01:47PM 20 this one is, for me, the first time to hear.

21 Q. Okay. So in response to that, you sent the
22 next email.

23 MR. LOMONACO: Can we see the next email? Move
24 up.

25

1 BY THE WITNESS:

2 A. Correct.

3 BY MR. LOMONACO:

4 Q. You say, "Hi, Drew." And then down to the
5 third paragraph, you were responding to his email;
6 right?

7 A. That's correct.

8 Q. And, "For China Assurance, are you talking
9 about Hefei National Radiation Facilities; right? I
01:48PM 10 include one letter. Does it solve this concerning?"

11 A. Correct.

12 Q. So did you include a letter with this email?

13 A. Yes, that's the attachment called Scan-4.

14 Q. Okay. And what was the letter?

15 A. That's the letter from the Hefei National
16 Radiology Facility. It's Dr. Zhang.

17 MR. LOMONACO: And can we scroll up a little
18 bit.

19 BY MR. LOMONACO:

01:48PM 20 Q. Oh, this is the letter?

21 A. That's correct.

22 Q. It says, "Letter of Commitment," and it's from
23 Professor Zhang?

24 A. Yes.

25 Q. University of Science and Technology of China;

1 correct?

2 A. Yes?

3 Q. Now, is that Beijing University?

4 A. No, it's another university at -- near Hefei.
5 Hefei is another Chinese city.

6 Q. Now, it says that he had a long-term
7 collaboration with you; correct?

8 A. Yes. So Dr. Zhang is my classmate when I
9 received my master's degree; my master's degree.

01:49PM 10 Q. So you knew him for a long time?

11 A. Yeah.

12 Q. So when you gave this letter to Drew, then what
13 happened?

14 A. Yeah. I saw that he ask me of the Chinese
15 facility; so I gave this letter to the Drew.

16 Q. Okay. So Drew Haswell told you you couldn't
17 use the letter; right?

18 A. Oh, Drew -- I remember Drew Haswell say
19 the -- say, "No. I mean, the China Assurance means that
01:50PM 20 you cannot work with China."

21 That time he send me the sample letter. That
22 sample letter, he already type with the proposal title
23 but not sign it yet. He say, "I mean the China
24 Assurance letter means you cannot" -- "We assure we will
25 not collaborate with China. You cannot work with

1 China."

2 Q. And so he --

3 A. The word means not exactly. I mean, if you
4 show the email, meaning, probably, is like that.

5 Q. So he sent you a sample assurance letter; is
6 that what you're saying?

7 A. Yes. Then I started to understand what means
8 China Assurance letter.

01:51PM 9 Q. Okay. So what is your understanding then when
10 you saw that?

11 A. I saw that that letter says not -- cannot
12 collaborate with China in the project.

13 Q. You can't; is that right? Is that what you
14 thought?

15 A. Yeah, that's -- well, from letter. But he
16 mentioned in the email -- I'm sorry. I just talk about
17 the one part I can remember. The second sentence he
18 say, "Oh, I mean, we always include this letter, and
19 this letter is not applied to our faculty, staff, and
01:51PM 20 the student."

21 Q. So he told you it didn't apply to UT faculty?

22 A. Yeah. That time, I get really confused. I
23 thought, if it not apply to me, why you send to me. But
24 I not ask that because we really have one hour to send
25 it to the Dr. Bar-Cohen. But he said, "We cannot use

1 this letter."

2 Then afterward, I still working on the
3 technical side of -- he send the next email directly to
4 Dr. Bar-Cohen and also copied to me and a copy to
5 Dr. Babu.

6 Q. Now, this is the email right here, is it not,
7 January 12th, 10:02? "However, UT always indicates a
8 special copy stating that, as we understand it, this
9 restriction does not apply to faculty, staff, and
01:52PM 10 students." That's what you're talking about?

11 A. That's correct.

12 Q. All right. So did anybody tell you that since
13 you had a longtime collaboration with scientists in
14 China that disqualified you?

15 A. No.

16 Q. And Drew Haswell knew at this point that you
17 had a long-term collaboration --

18 A. Correct.

19 Q. -- with scientists in China; right?

01:53PM 20 A. Yes.

21 Q. And there was a second letter, too, was there
22 not, that you sent to Bar-Cohen?

23 A. Yeah, that should be -- the first letter I send
24 it to the Bar-Cohen is on the January 4th. That's from
25 the BJUT. This is a second letter.

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1 Q. That's a different scientist from a different
2 university; is that correct?

3 A. Correct.

4 Q. And they said you had a long-term
5 collaboration, also, in the letter; right?

6 A. That's correct.

7 Q. Did anybody tell you at that point that you
8 couldn't participate in a NASA grant because you have
9 collaborated with Chinese professors?

01:53PM 10 A. No.

11 Q. So you didn't think that that was a problem as
12 long as what?

13 A. You know, the -- once I see this, especially
14 when Drew Haswell sent it, I understand I cannot in the
15 project to involve the affiliate of the Chinese
16 institute.

17 Q. And after sending those letters and talking to
18 Drew Haswell and Professor Bar-Cohen, did you try to
19 involve China at all in the NASA grant?

01:54PM 20 A. No. After we saw that, we still needed to wait
21 a half year to see the result. So that basically that
22 program -- or that application isn't finally declined.
23 We did not get the grant.

24 Q. So you had to wait a half a year to find out
25 whether you got it or not?

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1 A. Yeah, we basically have to wait the five to six
2 months to get a review and get a final result. But
3 there are things that we submit. There is no -- no
4 people further talk about this thing to me.

5 MR. LOMONACO: Okay. Your Honor, may I move
6 Exhibit 27, I believe?

7 THE COURT: That's this email chain?

8 MR. LOMONACO: Yes, Your Honor.

9 THE COURT: So admitted.

01:54PM 10 (Defendant's Exhibit 27 was marked and
11 received into evidence.)

12 BY MR. LOMONACO:

13 Q. Well, let's talk about the next NASA grant;
14 okay?

15 A. Yeah.

16 Q. That would have been in the -- what time? In
17 2016, you applied for another JPL?

18 A. So, you know, even after we submit this one and
19 I still keep the -- frequent the conversation with the
01:55PM 20 Dr. Bar-Cohen. So because we talk about the
21 collaboration, potential collaboration, and he started
22 to understand -- I mean, know me more, and he really
23 wanted I can help.

24 So, but we are waiting. In May, I remember, he
25 told me unfortunately we're not funded. And we already

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1 talk about several things at that moment. But I say,
2 "Oh, but, you know, unfortunately we cannot fund it."
3 He say, "No, I mean to" -- "needed to write about." But
4 this is through the conversation, he say, "I mean, I
5 still need your technique to help me."

6 Q. Your technique?

7 A. Yeah, special technique to help me to address
8 my NASA project.

9 Q. Bar-Cohen told you that; right?

01:56PM 10 A. Yes. And we, through the telephone, we chat of
11 that. He say, "I mean, I need you write the proposal."
12 We call it a subcontract. "You write that for me?"

13 And, you know, I got -- later on in the email,
14 he say, "Oh, Anming, remember, we already" -- "on the
15 telephone, we talk about that. You need to prepare the
16 proposal for me. I can subcontract you." Then we
17 talk --

18 Q. Yeah. When was that that you were talking
19 about that?

01:56PM 20 A. That either should be June and July, we talk
21 about that, roughly about that. But the proposal we
22 submit should be either August or September. I cannot
23 remember the date.

24 Q. So he actually asked you to do a proposal?

25 A. Yes.

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1 Q. Now, normally when a grant comes from a sponsor
2 like NASA, do they go and talk to you about doing the
3 job?

4 A. No, this -- this is a -- very special because
5 of the -- you know, usually NASA have the solicitation
6 and we looking for the chance. I go to the website and
7 I find, and I looking for the -- some people interested
8 in my technique.

9 But for this one, Dr. Bar-Cohen emailed me,
01:57PM 10 talked with me, and asked me, like I say, "Oh, I mean,
11 so I still have money. I can fund you to fund a -- one
12 Ph.D. student, and you need to prepare their proposal.
13 I see at least at UTK one Ph.D. student and I need how
14 much money." And we talk about the funds.

15 Q. Okay.

16 A. After that, I prepared the proposal. It's a
17 very -- not unusual. He reached out to me. He asked me
18 to write the proposal.

19 Q. Oh, usually NASA just posts any kind of grants
01:57PM 20 they have --

21 A. Yes.

22 Q. -- on the website and you look through them to
23 see if there is something you can do; right?

24 A. Yes, yeah, that's what I usually --

25 Q. What is your expertise?

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1 A. My expertise is use the nanomaterial to develop
2 their new technique. We call the joining, welding.
3 It's most people can understand the welding, joining,
4 but I can use the nanomaterial.

5 Q. So what is nanomaterial?

6 A. Nanomaterial is the -- nano is small. That
7 means nanometer, we consider. So that's -- could be
8 either one of a million as the -- a hair, the diameter.
9 So it's so small. So that's called a nano.

01:58PM 10 Q. How do you create nanomaterial?

11 A. This is through the -- I work this one in the
12 past almost over 20 years. Oh, let's see. Close to
13 30 years, even, for my first Ph.D. So, in my lab, I
14 train the student to fabricate a different nanometer.

15 Q. How do you fabricate it?

16 A. So we, through the physics and the chemistry
17 method, and there are -- there is a lot of the technical
18 detail. But my labs, mainly we have the -- all kind
19 of -- not all kind of. We have several different that I
20 choose. That's common to what you can build in the lab.

21 We have very unique technique. We can do the
22 nanomaterials other lab, special for welding. But other
23 people may probably can do it.

24 Q. So what did NASA want or JPL want to do with
25 your welding techniques?

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1 A. Yeah, that's the --

2 Q. Can you tell the jury?

3 A. Yeah, we specially develop the technique to --
4 NASA want get the sample for Mars.

5 Q. For Mars?

6 A. Yeah, for Mars, to gather the soil, the sample,
7 and send back to the earth and to study. I not involved
8 with those. I only develop the special con- -- NASA
9 have the container. I special develop the technique to
02:00PM 10 make this two spherical container to weld together, and
11 the soil is put inside and send this back to the earth.

12 And in that case we can study those material
13 without polluting the Mars and also the earth. So I --
14 I help Dr. Bar-Cohen to develop this kind of a
15 technique. Dr. Bar-Cohen already working on this
16 probably over ten years or 15 years, but he use the
17 traditional method and it needs a lot of -- it's very,
18 very expansive. But my technique is pretty cheap. It's
19 a -- very novel. So we can use nanomaterial to make
02:00PM 20 that and it will cost less.

21 Q. So on that particular grant --

22 A. Yeah.

23 Q. -- application, you did a proposal.

24 A. Yes.

25 Q. Did you try to include any scientists from

1 China?

2 A. No, for this one, I don't, because this one is
3 their -- their -- NASA. I developed in UTK. We don't
4 want to let the other people involve those.

5 Q. And did you have to sign or assure NASA on the
6 NASA restriction?

7 A. Yeah, later on, I understand, but by that time,
8 I still don't know that. But when I write
9 the -- prepare this second, the proposal to the
02:01PM 10 Dr. Bar-Cohen, this one without the China Assurance
11 letter.

12 Q. Well, what does that mean, "without the China
13 Assurance letter"?

14 A. That mean, you know, for those kind of letter,
15 it should be the research office. They need to do the
16 check of the federal law, state law, and the university
17 regulations.

18 So for the regular faculty like me, we fully
19 focus on technical side. Also, I relied on my research
02:02PM 20 office, UTK research office, to explain to me the law,
21 what a -- which kind of law it is, which kind of
22 regulation it is.

23 Q. Did anybody talk to you about the NASA
24 restriction on that project?

25 A. No. And I only talked through the Drew

1 Haswell.

2 Q. Okay.

3 A. But I should say, I got another PowerPoint
4 presentation from the Tammy Johnson -- she is from our
5 department, the business manager -- in September 2016.
6 That language is the same as Drew Haswell explained.

7 Q. So Tammy Johnson sent you one of those bright
8 orange, little training manuals or presentations; is
9 that right?

02:02PM 10 A. Yeah, it's called a Program and Project
11 Development. That's the training -- I mean, that are
12 currently in their -- yeah, it's proposal and budget
13 development.

14 Q. Is this it here on the screen (indicating)?

15 A. Uh-huh.

16 MR. LOMONACO: Have we introduced this already?
17 I think we did. If we haven't moved it, Your Honor --

18 MR. PARSONS: We have.

19 MR. LOMONACO: Okay. So why don't you go down
02:03PM 20 into the point where it talks about NASA.

21 BY MR. LOMONACO:

22 Q. Now, when you got this, was it before or after
23 you submitted the proposal on the JPL subcontract in the
24 fall of 2016? Did you get this before or after the
25 proposal submission?

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1 A. This one almost the same -- let's see.
2 September. I think it was probably the same month.
3 Same month, yeah.

4 Q. And you see here where it says, "UT always
5 includes an amended NASA China Assurance document." Do
6 you see that?

7 A. Yes.

8 Q. But there was not one included on that proposal
9 to NASA, was there?

02:04PM 10 A. Yes.

11 Q. Yes, there was not?

12 A. I'm sure there is no assurance letter because
13 the -- for some reason, there also the -- what did they
14 send me, a copy to me, yeah.

15 Q. Okay. And the second sentence says, "The
16 language on the assurance letter indicates we do not
17 view faculty, staff, and students to be entities of
18 China." So that was the same thing that Drew Haswell
19 told you; right?

02:04PM 20 A. Yes.

21 Q. All right. So when you made that second
22 proposal -- that's actually the proposal that is one of
23 the counts in the indictment; correct?

24 A. Yes, that's the first charge that -- I mean,
25 the first NASA grant to charge it to me.

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1 Q. In other words, in the indictment, you are
2 charged with tricking and deceiving or committing fraud
3 willfully, knowingly deceiving NASA into believing that
4 this proposal was okay, basically?

5 A. Yes.

6 Q. And it was this proposal that we're talking
7 about that they say you tried to commit fraud; right?

8 A. Yeah, that's -- yeah.

9 Q. Did you try to commit fraud?

02:05PM 10 A. No, I never.

11 Q. Did you try -- did you try to hide anything
12 from NASA?

13 A. No.

14 Q. Did you even know what the NASA restriction
15 was?

16 A. I still don't know.

17 Q. We don't understand it, do we?

18 A. Yeah.

19 Q. I take that back. Sorry. My opinion doesn't
02:05PM 20 count right now.

21 Okay. So you ended up getting the grant; yes?

22 A. Yes.

23 Q. How much money was the grant for?

24 A. This one is totally 6,000.

25 Q. 6,000?

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1 MR. PARSONS: 60.

2 BY THE WITNESS:

3 A. 60. Oh, I'm sorry. Yeah.

4 BY MR. LOMONACO:

5 Q. 60. Okay. And so NASA gave UT \$60,000 in
6 increments?

7 A. The -- for the grant, the one that granted it.
8 For me, it's the -- just me as a project, it costs so
9 much money. But UTK probably bill them their step by
10 step. But those is behind me. I never touch the --
11 those are the billing docs. They did not involve me.

12 Q. You saw the government introduce a bunch of
13 documents, one after another --

14 A. Yeah.

15 Q. -- with the nice lady from, I guess, NASA there
16 saying that they paid so much, then they paid some more
17 month after month --

18 A. Right.

19 Q. -- until it was paid?

20 A. Yeah, I should see -- when UTK bill -- bill the
21 JPL, they probably also copy to me. I see that. Yeah,
22 probably they also copy to me, but it's not my duty to
23 involve the financial side.

24 Q. Did you get any payment?

25 A. Yes, for this one, if we checked the government

02:06PM

02:07PM

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1 last invoice, they clearly show I got the \$1,400.
2 That's because I use my summertime to contribute to this
3 project. All the left amount, it goes to the UTK. So
4 my part is about 2.5 percent. So mainly the grant to
5 use is usually to support the UTK student. So UTK
6 student. And other is for the UTK F&A. So UTK take
7 the --

8 Q. So approximately how much would the student get
9 out of that grant?

02:07PM 10 A. Student get over -- let's say something like
11 30- -- 35,000.

12 Q. And what's -- that's paying the student's
13 tuition or room and board, or both, or what?

14 A. Both. Three parts. When we apply for this
15 project, we ask Dr. Bar-Cohen, he have to support one
16 full-time Ph.D. student, and that means we have to pay
17 this Ph.D. student's salary, tuition, and benefits.
18 Benefit means insurance.

19 Q. Did you say PA student?

02:08PM 20 A. Ph.D. student.

21 Q. Ph.D.?

22 A. Yes.

23 Q. Okay. So as you're doing your proposal on the
24 NASA grant, is your budget department negotiating with
25 how much they should get paid for the grant and say

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1 you've got to pay for students; is that all negotiable?

2 A. Yes.

3 Q. You're not involved in that; right?

4 A. No, no, I involved. In fact, I talk with
5 Dr. Bar-Cohen talking about -- he say, you know, "I need
6 you locate the one Ph.D. student for this project." I
7 tell him roughly the number. Once he say, "Yeah, okay,"
8 then you need to give me the clear project.

9 Q. Who was the Ph.D. student on this?

02:09PM 10 A. The Dr. Denzel Bridge. He already graduated.
11 That's the reason I call him. He is my first-step Ph.D.
12 student. Right now he serving in California Navy Guard
13 place.

14 Q. Naval Guard?

15 A. Navy. Navy Guard, yeah.

16 Q. And he's an American?

17 A. He's American.

18 Q. Okay. So when you got that proposal submitted,
19 it was in September; is that right?

02:09PM 20 A. I think it was in September.

21 Q. Did you know that you were going to get any
22 money from that proposal?

23 A. Yeah. You know, like those, we --

24 Dr. Bar-Cohen said he really want to fund me. So those
25 is not go outside of the review. It's usually inside of

1 the review.

2 Q. No, I mean, any money to go into your own
3 pocket.

4 A. Oh. This is one we just talk. I only get
5 1,400.

6 Q. But when you submitted it in September --

7 A. Yeah.

8 Q. -- you had to work the next summer --

9 A. Yeah.

02:10PM 10 Q. -- to get the money; right?

11 A. Yes, next. Yeah, until the --

12 Q. So when you submitted it in September, did you
13 think you were going to get paid anything for sure or
14 not, or did you know?

15 A. No, I don't know. Yeah, once we -- we have to
16 wait that the money arrive to UTK. Then we can start
17 the work; we can spend the money.

18 Q. Okay. So your intentions on submitting this
19 proposal was not to make money?

02:10PM 20 A. Yeah, honestly, you know, I help NASA and also
21 I help the big -- relatively big -- it's not very big --
22 from the DOE. So Department of Energy from Oak Ridge --
23 Oak Ridge National Lab. So I -- I mean, I'm in -- a
24 total month is something like 500 salary. It's at least
25 five times bigger than their NASA -- I mean, to NASA put

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1 together. So when we are working for the NASA, I really
2 honestly serve the NASA. I never wanted to cheat, to
3 defraud. Through the work, I really learn since I was
4 indicted.

5 So, for this project, as we already see,
6 Dr. Bar-Cohen really needed me unique for technical. He
7 also ask me -- I mean, "You need explain why I need to
8 fund you, not other university professor. You need to
9 tell me. I know you have this special technique. You
02:11PM 10 need to draft me a paragraph, see if your technique fit
11 in my proposal."

12 MR. MC KENZIE: Objection, Your Honor. He's
13 testifying about what someone else should do as opposed
14 to events that he recalls.

15 MR. LOMONACO: I think he's just trying to --

16 THE COURT: We'll keep going. I'll overrule
17 the objection. The jury can be mindful of the context
18 in which the response is being given.

19 BY MR. LOMONACO:

02:12PM 20 Q. So, now, after this proposal, there was another
21 NASA proposal; is that correct?

22 A. Yes.

23 Q. And when was that?

24 A. That's -- once this proposal -- even this
25 proposal -- oh, no. I mean, even in this, the JPL

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1 project before they're finished and I involved in second
2 one. That's their UTK research office tried to help the
3 faculty to get their collaboration from the Marshall
4 Space Flight Center. They organized the meeting. And
5 on the -- each side, they have their -- NASA have their
6 scientists and UTK have eight faculty. I'm one of that.
7 We start from phone chatting, see and explain each and
8 what's our interest and looking for the overlap
9 interest.

02:13PM 10 Q. Okay. Back up and make sure everybody explains
11 what you're talking about.

12 Was this a meeting to do a proposal or just
13 a -- what kind of meeting was it?

14 A. This meeting is just called potential
15 collaboration meeting. It's to try to both sides know
16 each other, and they're looking for we can support each
17 other.

18 Q. Who is at the meeting? I mean, what parties
19 were there?

02:13PM 20 A. The eight faculty from UTK side, eight
21 professor from UTK side, and about the six research
22 scientists from the Marshall Space Flight Center. So we
23 joined the teleconference and talk, introduce each other
24 and what -- focus on -- I told to them what my special
25 technique I can contribute or what I'm interested in.

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1 Q. So then what happened?

2 A. After that, I think probably that's the only
3 one output from that meeting is Curtis Hill sent --
4 maybe the second day or third day -- email me, say,
5 "Anming, I'm interested in your research field. I want
6 to collaborate with you." That's the first time I know
7 their --

8 Q. So somebody from NASA or --

9 A. From the Marshall Flight Center, NASA.

02:14PM 10 Q. Reached out with you and said they wanted to
11 collaborate on the proposal?

12 A. That's correct.

13 Q. So did you start writing a proposal?

14 A. No, not yet. And he say, "I'm interested in
15 your research. Can you send me some documents?" I send
16 him my paper and some documents to Curtis Hill. And he
17 review that, and he say, "Okay. So I really interested
18 in your field." Like, he proposed, "Let's find a time
19 that I come to the UTK campus. I want to look at your
02:14PM 20 lab."

21 Q. Okay. At this time, did you try to involve
22 anybody from China in this project?

23 A. At that time, I have their -- probably I have
24 the three visiting students in my lab that's from China.
25 But I think at that time probably no student from BJUT,

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1 but from other university, Chinese university.

2 Q. Was that a problem?

3 A. I don't think it's a problem because, you know,
4 by the UTK, we see if you have the -- any project, if it
5 prohibit all the sensitive, you need to well separate
6 it, but at that time, I don't have -- I have JPL, the
7 program, but it's only the Denzel Bridge working on
8 that. So that project only support one student. So
9 nobody involved that. So then we are talking the second
02:15PM 10 one. I mean, it's Bar-Cohen. But, no, Curtis Hill
11 reached me. But at that time, we not talk about the
12 proposal.

13 Q. But as far as this second one with Curtis Hill,
14 did you have any students work on that one?

15 A. Something like that. He visited my lab. I
16 introduce each student to him and each student present
17 to him, including the visiting student, and we -- he
18 doesn't see -- tell me anything.

19 Q. Who is that?

02:16PM 20 A. Curtis Hill from --

21 Q. Curtis Hill came?

22 A. Yeah, from the Marshall Flight Center.

23 Q. He met your students?

24 A. What?

25 Q. Did you introduce your students to him?

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1 A. Yeah, all the students, including the UTK.
2 Even Denzel Bridge.

3 Q. Did you have any visiting students working with
4 you at the time?

5 A. Yes, I have, I think, three visiting students.

6 Q. Okay. Did any of them end up working on the
7 project?

8 A. No, those are the visiting students working on
9 the other project.

02:16PM 10 Q. Okay. So did you deliberately keep them from
11 working on the project?

12 A. No, I never involved those students into the
13 NASA project, because when Curtis come, he not see which
14 part. At that time in my lab I have parallel. I have
15 something like five projects working on. Basically each
16 Ph.D. student is working on one direction. So I don't
17 know which direction he's really interested. He not
18 tell me.

19 Q. I see.

02:17PM 20 A. And, yeah, I introduce each student to the
21 Curtis Hill. Very brief. I mean, he say, "Oh, I mean,
22 you have this technique. I want to send you some of
23 their ink that you test." That's the -- but we do have
24 any NASA project at that time.

25 Q. So you were testing some ink for a JPL project

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1 or JPL without a contract of any kind?

2 A. Those -- JPL, we have a contract, but with the
3 Marshall Flight Center, we don't have a project.

4 Q. Were you doing that work for free?

5 A. Yeah, I do voluntarily for the Curtis Hill. We
6 do this work about almost the two years, and he always
7 tell me this is a chance, but that chance, but we not
8 write it up proposal until 2000- -- after summer 2017,
9 after I volunteer work for him for over one year, and he
02:18PM 10 see. He see there is a proposal opportunity we write.

11 Q. Okay. And so tell us about that proposal that
12 you wrote.

13 A. Yeah, that's the 2017. So, in the summer, and
14 Curtis Hill told me that there is a -- called the Early
15 Career Initiative, NASA Early Career Initiative. That's
16 funded the young NASA scientists, and they can allow
17 them to corroborate with outside the U.S., the
18 university.

19 So Curtis Hill thinks that I can help. And I
02:19PM 20 further introduce the -- my -- the Oak Ridge sponsor to
21 involve the -- yeah.

22 Q. Okay. So that's the CAN project?

23 A. No, this is before the CAN project.

24 Q. Okay. Did this one get approved?

25 A. No, we write that. We submit. UTK as the

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1 subcontractor, again, has a subcontract from the ECI
2 proposal. ECI is the --

3 Q. Let's talk about the one that got approved.

4 A. Yeah. So after this, Curtis Hill push me.

5 Say, I mean, we need to do CAN. And -- but before CAN
6 means we have to do one-to-one. It means, you know, if
7 NASA give their -- UTK one dollar, UTK need to match
8 that one dollar. So that's called a CAN. And that
9 means I have to secure the 50 percent from the UTK side.

02:19PM 10 Q. Okay. Now, this would be considered a NASA
11 proposal; correct?

12 A. Yes. It's a -- one kind of NASA proposal.

13 Q. All right. And you worked on writing the
14 proposal?

15 A. 2017, before we not write because I have other
16 proposal. I don't have time to write. Until I see -- I
17 first get the money. You know, UTK see I can -- we can
18 match your 50 percent. After that. But I don't have
19 time to write the proposal. Curtis Hill mentioned that,
02:20PM 20 "Let's do the next year spring."

21 Q. 2018?

22 A. Yeah, 2018. When the CAN come in May,
23 May 2018, that's the spring call for the CAN.

24 Q. Now, the FBI came and talked to you?

25 A. Yes, that's exactly I told the FBI agent, I

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1 have the two NASA proposal needed to write.

2 Q. Let me ask the question; okay?

3 A. Sorry.

4 Q. That's what I was going to ask. Did you have
5 any -- no, April 2018, they came to talk to you; right?

6 A. Yes.

7 Q. And so you had two proposals at that time that
8 you were trying to put together; right?

9 A. Yeah. So I needed to -- yeah, I --

02:21PM 10 Q. Two NASA proposals?

11 A. Two NASA proposals I needed to prepare.

12 Q. And you told that -- who did you tell that to?

13 A. The FBI. The Sadiku and Laura Slatton. At
14 that time, I don't even know they're agent.

15 Q. Tell us about that day.

16 A. That's about April 18, if I remember correctly,
17 2018. And he -- he -- they two come to Monday
18 afternoon, I think, when I needed to go leave for class.

19 They stop me. Say, I mean, "We are FBI. We need to

02:21PM 20 talk to you." I say, you know, after five minutes, I
21 needed to go to class to teach. I say, "Is it possible
22 you come second day to meet me and talk with me?" They
23 say, "Okay." They come on the second day morning.

24 Q. What did they ask you?

25 A. The -- first introduced themselves and they

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1 show me their -- the name card. And, you know, after
2 that, even I get really nervous. I don't know what
3 happened. I told my department head, Matthew Mench, I
4 say, you know, "The FBI come to talk to me, but I have
5 class to teach. I didn't talk with them. I don't know
6 what's reason." Dr. Mench asked me, "Why?" "I don't
7 know." I say, "They come tomorrow morning." They say,
8 "Okay. You go ahead and talk with them." That's -- I
9 don't know what's reasons. So I wait for them and talk.

02:22PM 10 Q. So what did they want? What did they say to
11 you when they came in?

12 A. Yeah, they come to see the -- "Are you a
13 Thousand Talents Plan member? Do you know the plans?"
14 He show the -- a lot of documents. I said, "I'm not in
15 their Thousand Talents Plan." Then they ask, "Do you
16 know if there are any people in the Thousand Talents
17 Plan?" I say, "I don't know."

18 Q. So they asked you if you knew any of them,
19 anybody else?

02:23PM 20 A. Yeah, they asked me, "Do you know any other
21 people is the UT professor that is in the Thousand
22 Talents Plan member?" I say, "I don't know."

23 Q. Did they joke with you or argue with you about
24 being a member in that plan?

25 A. Yeah. So, you know, after that, I say, "I'm

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1 not in the Thousand Talents Plan." He say, "No, you are
2 so smart," you know. "You are" -- "You should be in the
3 Thousand Talents Plan," you know. I said, "No, I'm not
4 smart" -- "so smart enough."

5 Q. So did they ask you to do anything?

6 A. Yeah. But I told him -- oh, I think the FBI
7 show me the -- the poster that is the seminar I did in
8 China. They say, "What's this?" You know, I say,
9 That's the seminar poster."

02:23PM 10 Q. So where did he get the poster?

11 A. I really don't know. I think they probably get
12 it from website.

13 Q. So they brought it with them?

14 A. Yeah. After they ask me, I say I'm not, they
15 say, "Okay. What's this?" Like that. They bring a lot
16 of material, ask me one by one to say, "What's that?"

17 Q. Okay. And did you answer their questions?

18 A. Yes.

19 Q. Okay. And did they ask you about the poster?

02:24PM 20 What did they ask?

21 A. Yeah, they ask on the poster, "What's this?
22 Can you explain this?" I say, "This is the one seminar
23 I did in China."

24 Q. That you did?

25 A. Yeah, I did -- I did the -- that probably was

1 one year before that I did.

2 Q. Was your name on the poster?

3 A. Yes, there is my name. Probably even have my
4 picture. I cannot remember. But what I remember is one
5 of the poster about my seminar.

6 Q. So it was a seminar?

7 A. Yeah.

8 Q. And where was it held?

9 A. No. I think it is -- those are the seminars.

02:24PM 10 Every summer I try to present in a different university,
11 even in the U.S. and other university.

12 Q. Why do you do that?

13 A. That's -- you know, as a professor, we mainly
14 use the summertime to visit the different universities
15 or institutes, and we need to know the people, to build
16 the social networking and also present ourself to other
17 people, let them know what we can do, and we
18 can -- another way through this seminar, I can also
19 learn from other research scientists.

02:25PM 20 Q. So is that encouraged that you go to those
21 seminars?

22 A. Yes, definitely. That's a -- that's the
23 university encourage. That also is the common activity
24 in the academic side.

25 Q. For the scientists to do that kind of thing?

1 A. Yes, yes.

2 Q. So where was this seminar that you had gone to?
3 What city?

4 A. That's the -- I think that's the Nanjing,
5 university in Nanjing. Not Beijing. You know, Nanjing
6 and Beijing is a different Chinese city.

7 Q. Yeah. So they asked you about the poster, and
8 what did you tell them?

9 A. I just say that's one of my seminar I do in
02:26PM 10 China, and the -- every year I do the -- several like
11 those.

12 Q. How many other countries have you gone to to
13 give seminars?

14 A. Usually, you know, I -- before I joined the
15 UTK, I already build some relations with the --
16 certainly from Canada because I get educated in Canada.
17 I also have the relationship with Japan, Germany, and
18 Spain.

19 Q. Germany --

02:26PM 20 A. Yeah.

21 Q. -- and Spain?

22 A. Yeah.

23 Q. Have you done seminars in those countries?

24 A. Yes. You know, even I can speak German.

25 Q. Really?

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1 A. Yes.

2 Q. Anyplace else?

3 A. China, of course.

4 Q. Okay.

5 A. Yeah.

6 Q. All right. Because you can speak Chinese?

7 A. Yes.

8 Q. And so they talked to you about that. Did they
9 ask you to do anything?

02:26PM 10 A. Yeah. So FBI asked me, "Do you" -- "Do any
11 foreign countries support you or finance you to travel
12 to there, give a seminar, or do they pay your flight or
13 the hotel?" Like those. Especially they ask me, "Do
14 the Chinese company or Chinese government pay you the
15 flight to China? Or I see -- in fact, that he come
16 to the -- that's April. I go to the invitation in
17 February. That's from China, one of the Chinese -- the
18 one conference in China.

19 Q. Okay. Let's talk about some of these -- some
02:27PM 20 of these seminars that you go to. You give speeches;
21 right?

22 A. Yes.

23 Q. And do sometimes you get your -- your expenses
24 paid to go to those?

25 A. Yes. Usually, you know, that's dependent on

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1 their professor, their experience, you know. Like the
2 agent -- like me, I mean, usually people, they not
3 pay -- pay me that, but I still want to do because I
4 need to let people know me. But like Dr. Babu, he got a
5 lot of recognition. He will -- a lot of people want to
6 invite him because he's a famous guy. So I'm not a --

7 Q. Would that be one of your goals is to get
8 well-known --

9 A. Yeah.

02:28PM 10 Q. -- with the international science community so
11 that they can fly you around instead of UT having to pay
12 for it?

13 A. Yeah. So, like those, if I get an invitation,
14 people willing to pay me, that means it's usually good.
15 So that means I already build my reputation in that
16 field, I mean.

17 So I told this to the UTK, my department head.
18 He felt, "Okay, Anming, as an assistant professor, you
19 can be invited to be the primary speaker." Because the
02:28PM 20 people that attend at a conference and only four people
21 being invited by primary. That means that I really
22 reach the top of that level. So you see this is really
23 good.

24 Q. Okay. So this seminar in February where you
25 heard about it, they had offered to fly you there?

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1 A. Yes. They say, "If you come to give our" --
2 "the primary" -- "the talking, we plan to pay your
3 carrier fee and also the hotel cost and the local
4 costs."

5 Q. And you told that to the agents; right?

6 A. Yeah, I told them, because he ask me. I say,
7 "Yes, I got." And even the second day, I even forward
8 the invitation to him. "That's the invitation." But I
9 told him. I told that to FBI. I forwarded the email to
02:29PM 10 FBI.

11 Q. The invitation email?

12 A. Yeah, with the invitation letter.

13 Q. You were completely open and honest with him?

14 A. Yes.

15 Q. You answered all their questions?

16 A. Yes, I answered all their questions. I think
17 only they question me over one hour, and after that he
18 say, "I mean, don't worry. So I try to protect you."

19 And then he say, "For special for this conference in

02:30PM 20 China," he say, "Anming, before you go, come to my
21 office, talk with me, and when you come back, come my
22 office and talk with me."

23 Q. So before you -- when you come back, go and
24 talk to him again?

25 A. He say -- ask me, "When you come back, come to

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1 see me. Tell me who meet you. What did they ask you to
2 do?"

3 Q. This is Agent Sadiku that did this?

4 A. Yes.

5 Q. When he said, "Don't worry, we will protect
6 you," was that before he asked you to go?

7 A. That's -- that's the -- I think it's during the
8 conversation he told me he want to protect me.

9 Q. Did you know what he meant by that?

02:30PM 10 A. He meant because he just imagined that in the
11 beginning, he say he's looking for the Thousand Talents
12 Plan. I say I'm not. But I told him I had a short-term
13 plan in the BJUT. Yeah.

14 Q. You told him about your part-time job over at
15 BJUT?

16 A. Yes.

17 Q. You told him about your affiliation or your
18 NASA grants that you were trying to get?

19 A. Yeah. I say I prepare the two NASA grants.

02:31PM 20 Q. I'm sorry. I might have cut you off.

21 A. Yeah.

22 Q. What was your understanding about why he was
23 going to protect you?

24 A. He told me that he want to protect me. He say,
25 "We come to university, talk with the professor. We try

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1 to protect you." Means like the people like me, I mean.

2 Q. People like you?

3 A. Yes. No, I mean, similar like me. It's not
4 me. Like me. He just wants to protect me; right?

5 That's what you told me.

6 BY MR. LOMONACO:

7 Q. Okay. So after that meeting, did you decide to
8 go to the seminar?

9 A. Yeah, I -- even during the seminar, I told him,
02:31PM 10 "That's an invitation." I not say I will go. But he
11 says, "You" -- "Before you leave, you talk to me and
12 come back and you talk with me." I say, "I've not said
13 I will go." Because I have the right -- I send him the
14 email. I see after the couple days of thinking, I don't
15 want to go. "Do I still need to come to your office?"
16 He not answer me from that, after that.

17 Q. Okay. So you sent him an email asking if you
18 needed to go to see him, and he didn't respond?

19 A. I say, "I will not go. Do I still need to come
02:32PM 20 to see you?" He not answer me.

21 Q. Okay. Now, there was another NASA grant that
22 you got that is the subject of the next fraud charge in
23 this case; right?

24 A. Yeah. So after the -- I worked with the Curtis
25 Hill after over one or one-and-one-half year, and we

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1 write this CAN, and he said, "I mean, you really need to
2 work on this. We really want to collaborate together.
3 I really like what you did." And he give me the -- a
4 lot of the encouragement. Because I don't want to work
5 on it because at UTK, I have to contribute 50 percent
6 money. That means that, you know, for the second
7 project, because I'm the young faculty at UTK, I have to
8 contribute my summertime. For the CAN project, there is
9 totally \$50,000. I contributed my salary -- or some
02:33PM 10 salary, plus benefit.

11 Q. What does that mean? I mean, NASA pays
12 50 percent?

13 A. NASA pay 50 percent.

14 Q. And you yourself pays 50 percent?

15 A. UTK pay 50 percent. I mean, you have to
16 contribute your summertime. That means I worked
17 voluntarily.

18 Q. Okay. So that's how you contribute yourself.
19 How much voluntarily did you contribute?

02:33PM 20 A. I contributed one months of classes, one week
21 or two weeks. That's the -- what you called the value
22 is about 2,800 U.S. dollars.

23 Q. So you didn't take that out of your pocket?

24 A. I didn't contribute anything. I worked for
25 free for one, one-and-a-half months.

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1 Q. Now, let's talk about the application process;
2 okay?

3 A. Yeah.

4 Q. Was there an assurance letter?

5 A. This one, again, there is no assurance letter.

6 Q. So nobody showed you the assurance letter that
7 their training manual said they were supposed to show it
8 to you?

9 A. Nobody to -- yeah, nobody to see the assurance
10 letter.

02:34PM

11 Q. And I think we've introduced that proposal, and
12 it doesn't have an assurance letter on it, does it?

13 A. That's correct.

14 Q. And when you were making that application, did
15 anybody talk to you about, "Oh, Anming, tell us about
16 your collaborations with China"?

17 A. Nobody ask me like that.

18 Q. Did you think that you were violating the NASA
19 restriction at all by making an application?

02:35PM

20 A. No. Because, you know, the -- when
21 Dr. Bar-Cohen -- we only talk about the China Assurance
22 one time with the Drew Haswell. After that --

23 Q. Because of the letter; right?

24 A. Yeah. And after that, so Dr. Bar-Cohen still
25 come to me and we work together for the first NASA

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1 project. And I think what I understand is that if I not
2 involve with a China institute for their funding of the
3 grant, that's okay. I didn't -- I would not violate
4 their China restriction.

5 Yeah, it's not me myself, finish or something,
6 but what I understand is for the funded money, I cannot
7 spend that money. It's not that I spent. UTK cannot
8 spend for their China collaboration.

9 Q. That was your understanding?

02:36PM 10 A. That's my understanding, yeah.

11 Q. Okay. So when you made this grant and started
12 working on it, every year you had to fill out your
13 conflict of interest form or your Outside Interest
14 Disclosure Form? Do you know what we're talking about?

15 A. Yes. So I imagine before every year, UTK
16 evaluate each faculty to evaluate if the material is
17 based on what we report. That's a true form. What do
18 you manage? One form of that. That's called our UTK
19 Outside Interest Disclosure Form. But we have another
02:36PM 20 form called Faculty -- Faculty Annual Review Activity
21 Report. It's submitted simultaneously.

22 Q. Okay. And so you've got two disclosure forms.

23 A. Yes.

24 Q. One is the one that the government is accusing
25 you of defrauding NASA with.

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1 A. Yes.

2 Q. And what's the other one?

3 A. Another one is called Faculty Activity
4 Report -- Annual Report.

5 Q. And we've shown some of those, too, in this
6 case?

7 A. Yes.

8 Q. What do you normally report on that?

9 A. That's every -- the fall, we need to fill in
02:37PM 10 this form and the past year what we did, and it include
11 the teaching, research service. Each detail, we need to
12 put it in that form. That is an eight-page. And the
13 conflict of interest, they allowed us to self identify
14 the interests. If we have an interest, we disclose. If
15 we don't have, we not fill out that form.

16 Q. Did you think you had an interest?

17 A. No, I don't think I have any interests.

18 Q. Did they --

19 A. Conflict of interest.

02:37PM 20 Q. Conflict of interest.

21 A. Yes.

22 Q. And how did you learn about the conflict of
23 interest when you came to UT?

24 A. Yeah. That's when I arrive at UT, I got a
25 short-term orientation. They're giving me the faculty

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1 handbook. They say, "If you need to understand UTK
2 policy, you need to read this book." And it's a thick
3 book. I take time to read it. Not over the two, three
4 days. I really read it later on. But I already fill in
5 this disclosure form during that orientation. That's by
6 handwriting.

7 Q. Okay. So -- I'm sorry; I was talking to
8 Mr. Ginny here, but did you say that you reviewed the
9 faculty handbook?

02:38PM 10 A. Yeah, this one is a -- it's not the 2019. At
11 that time, they issue -- we probably usually have the --

12 Q. Well, let's look at this one and see if it
13 doesn't have the same language as the one you looked at;
14 okay?

15 A. I don't think that they changed too much.
16 Probably a little bit of detail, yeah.

17 Q. You heard Professor Zomchick say it takes quite
18 a bit of effort to change the wording in this; right?

19 A. It could be, but this is what I know. But I
02:39PM 20 think most the same. They keep the same. Those
21 sentences they seldom to make a significant change,
22 yeah.

23 Q. So this chapter is called Compensated Outside
24 Services. What does that mean to you?

25 A. The outside of what -- I understand is not

1 means of UTK.

2 Q. What does "compensated" mean?

3 A. Compensated means that, you know, if we do
4 something, we yield something, that's called a -- if
5 some people, I mean, their compensate -- compensate
6 basically is to give some money for all of their --

7 Q. Pay?

8 A. Okay. Yeah, pay.

9 Q. Paid outside services?

02:39PM 10 A. Yeah, correct.

11 Q. So Section 7.1 here says -- it's talking about
12 full-time faculty members. It says they agree to devote
13 themselves to UT's mission of teaching, research, and
14 public service -- safety -- service.

15 A. Yes.

16 Q. This is similar to the policy manual, isn't it?

17 A. Correct.

18 Q. A hundred percent commitment to normal
19 university duties. Did you do that?

02:40PM 20 A. Yes.

21 Q. Did you -- did you perform your university
22 duties to the best of your ability a hundred percent of
23 the time?

24 A. Yes. That's the -- that's so the UTK can check
25 whether I satisfy this requirement is through the annual

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1 activity report. Like teaching every year, the nine
2 months, I have to teach three course. They will
3 evaluate that. So all about that. Not only in
4 teaching, also research and service.

5 Q. And speaking about fulfilling commitments, when
6 you performed on the first NASA project, was it
7 completed?

8 A. Yes.

9 Q. Did you have milestones you had to complete?

02:41PM 10 A. We -- for that one, we don't have the
11 milestones. We just did our -- we just have the final
12 technical report because their target is very clear. So
13 I have to reach that, the targets, I mean, within a
14 certain time. We reached that, the target, and we make
15 a report and submit to the Dr. Bar-Cohen, yeah.

16 Q. So you met the -- you met the requirements?

17 A. Yeah. So for that one, in fact, I know I
18 already. He also agree. But after I send the technical
19 report, he say, "Looks good. Thank you very much." We
02:41PM 20 finished, that means.

21 Q. So you believed they got what they paid for?

22 A. Yeah, definitely.

23 Q. Okay. So getting back to commitment of UT
24 duties, let's go here where it says, "The university
25 encourages the faculty to engage in consulting and other

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1 related outside services which are associated with an
2 individual faculty member's appointment and which
3 develop his or her professional expertise." Would that
4 be like going to these seminars and symposiums and
5 things like that?

6 A. Yeah, that's correct. I think this is --
7 imagine also included volunteer, you know. Some -- a
8 lot of, I do their seminar as a volunteer.

9 Q. Would it include writing papers and publishing?

02:42PM 10 A. Those usually -- it's not considered write
11 paper, but if we write a book, like a teaching, like
12 those are considered -- you know, is outside service.
13 But as of -- their research paper is my job for the
14 research. I needed to do like that category.

15 MR. LOMONACO: Go up to -- put General
16 Principles on there.

17 BY MR. LOMONACO:

18 Q. So this Section 7.2, paragraph 1 says,
19 "Full-time members appointed to the University of

02:43PM 20 Tennessee must devote themselves to the university's
21 mission of teaching, research, and public service."
22 You've already said that you did some things free for
23 the university?

24 A. Yeah. You know, like the -- during the summer,
25 if I hold a seminar for the high school student and high

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1 school teachers. Every year, summer, I do for the
2 Knoxville County, the high school student and the
3 teachers. Like I do free work, volunteer work.

4 Q. So it says, "While compensated outside
5 activities may be valuable for both faculty and
6 university, the primary responsibility of a faculty
7 member is to fulfill the teaching research scholarship
8 creative achievement and service commitments of his or
9 her full-time employment to the university." Do you
02:44PM 10 feel you did that?

11 A. Yes.

12 Q. And, "Faculty members have a responsibility not
13 to undertake external activities that substantially
14 burden or interfere with commitments to the university."
15 Now, here they're talking about taking on other
16 commitments, external activities, that substantially
17 burden; right?

18 A. Yeah.

19 Q. So does that indicate to you that there may be
02:44PM 20 some things you can do that won't substantially burden
21 the university?

22 A. Yes. You know, if I -- if I commit too much
23 time to outside, or, you know, if I working on -- you
24 know, if I not satisfy UTK side for teaching or if I
25 teach it bad, or research, if I not training my student

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1 fully, I focus on other things, I think that's called a
2 conflict of interest.

3 Q. That last sentence in there, it says,
4 "Compensated outside activities must not result in a
5 conflict of interest or a conflict of commitment with
6 respect to the faculty member's university's duties."
7 Now, are they talking mostly about conflicts during your
8 academic year?

9 A. That's correct.

02:45PM 10 Q. They're not talking about summer jobs, are
11 they?

12 A. Those are not considered as a summer. Summer
13 is our own time.

14 Q. And you're not -- you're not saying -- well,
15 they're not saying that it interferes with summer
16 or -- you answered my question. Let me go on.

17 Summertime includes vacation time or
18 Christmastime, too?

19 A. Yes, yeah.

02:45PM 20 Q. Okay.

21 A. Oh, no. I'm sorry. I should say national
22 holiday is not included those. You know, I
23 still -- after three months, I can still have the
24 national holidays as all the others.

25 Q. So your outside compensated activities are not

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1 part of full-time commitments. They cannot be
2 substituted for commitments of faculty member's
3 teaching.

4 MR. LOMONACO: Let's go down further.

5 BY MR. LOMONACO:

6 Q. Okay. Let go to five here; okay? "These
7 policy guidelines primarily concern long-term or
8 continuing reoccurring short-term arrangements between
9 faculty members and clients. These guidelines do not
02:46PM 10 apply to activities such as occasional short-term
11 activities, which are typically not compensated, except
12 for honorariums, which include, but are not limited to,
13 publications," and so on and so forth. "Does not apply
14 to compensated activities conducted in the summer by
15 faculty who serve in an academic-year appointment."
16 Now, you serve in an academic-year appointment; correct?

17 A. Yes.

18 Q. And what is your academic year?

19 A. Academic year is from fall. Is usually middle
02:47PM 20 of August and until the second year middle of April,
21 let's say; the end of April sometimes.

22 Q. But what about Christmas holiday, is that part
23 of it?

24 A. Christmas, the holidays, not include, and from
25 May, June and July, that's considered the summer.

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1 Q. So it says these -- so any outside activities
2 that you perform are not considered -- or do you
3 consider any outside activities that you perform outside
4 your academic year to be a conflict of interest?

5 A. No. No, I didn't see anything I did -- I mean,
6 belong to the conflict of interest according to this.

7 Q. Was that your understanding back when you first
8 got this handbook?

9 A. Yes.

02:48PM 10 MR. LOMONACO: Raise it up higher. No, the
11 other way.

12 BY MR. LOMONACO:

13 Q. All right. Now, this is the specific
14 guidelines; okay? "Nine-month faculty members are
15 expected to perform university-related activities for
16 nine months; thus, nine-month faculty members should
17 limit their total compensated outside services to no
18 more than 20 percent over their total 100 percent
19 university effort." What does that mean to you?

02:48PM 20 A. Yeah, those means even during the academic
21 year, we -- the UTK especially still allow the
22 20 percent time to do the outside other service.
23 Something like that.

24 Q. Okay. So could that include sending emails to
25 BJUT?

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1 A. Certainly.

2 Q. Or counseling students that are over there,
3 even if you're not there?

4 A. Yes. That's -- yeah.

5 Q. As long as it doesn't go for more work than
6 20 percent over your actual nine-month work?

7 A. Yes.

8 Q. So if you're working nine months, you can do
9 another 20 percent of that nine months during that nine
10 months; is that your understanding?

02:49PM

11 A. Right. That's correct. That's what I
12 understand.

13 Q. Knowing that, when you had to fill out your
14 conflict of interest form, what do you think your
15 appropriate answer was for question No. 1, "Do you have
16 employment that" -- the instructions of which say to
17 follow this. Do you understand what I'm saying?

18 A. Yes. I think, also, that, no, even from 2013
19 until 2019, I answered no. Reason is all my activity is
20 much lower than this limitation. That's the reason I
21 don't think I needed to report it on the outside
22 conflict of interest form.

02:50PM

23 But those activities, again, I report it in
24 another annual review faculty activity form. That's
25 there.

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1 Q. So when you were putting that answer down no,
2 were you even thinking about the NASA grants?

3 A. No. Yeah, so they're about --

4 Q. The first time you put it down was what year?

5 A. 2013.

6 Q. When is the first time you got a NASA grant?

7 A. I got a NASA grant in 2017 -- yeah, 2016,
8 October. That's from JPL subcontract, that first one.

9 Q. When you got arrested, you made some phone
02:51PM 10 calls to your son; correct?

11 A. Yes.

12 Q. You've heard the government play them?

13 A. Yes.

14 Q. And they pointed out or tried to point out or
15 make an issue of you saying, "Tell your mother I don't
16 have a position"?

17 A. Yes. Position, yeah.

18 Q. What did you mean by that?

19 A. Yeah. So I was arrested February 2000- -- I
02:51PM 20 mean, February 27, 2020. You know, my short-term, the
21 talent plan contract is ended 2000- -- December 2018.
22 So even if I -- yeah, go ahead.

23 Q. So your short-term talent contract, you're
24 talking about with China?

25 A. Yeah, with BJUT.

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1 Q. With BJUT?

2 A. Yeah.

3 Q. It had a term limit. I think we've looked at
4 it here before.

5 A. Yes.

6 Q. How many -- you had one that -- well, when did
7 the last one end?

8 A. The last one -- the last one end is
9 December 2018.

02:52PM 10 Q. All right. And the government has put a
11 contract for 2019 to 2021 on the screen before; correct?
12 You saw that?

13 A. Yes. That -- that one, if you pay attention
14 from government translation, on the cover page I see
15 need to sign after I arrive at the university.

16 Q. Okay. And that one was never signed; correct?

17 A. Last trip to China is December 2017. I never
18 back to China from beginning of 2018.

19 Q. Say that again. When was the last time you
02:52PM 20 were in China?

21 A. December 2017.

22 Q. And in order to extend any contract, you would
23 have to go and sign another one; right?

24 A. Yeah, before the -- that would be at least the,
25 you know, end of 2018 or beginning of 2019, I need to go

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1 back to BJUT, for example. Yeah.

2 Q. But you didn't?

3 A. No. As I mentioned, last one was December
4 2017.

5 Q. So is that what you meant by saying, "Tell my
6 mother to tell UT" (sic) --

7 A. Yeah.

8 Q. -- "I don't have a position"?

9 A. Yeah. So that's because of the -- after I
02:53PM 10 arrested and the lawyer told to me UTK -- because I
11 worry about the UTK student. I have the examination
12 that day. I mean, my class, over 100 students waiting
13 for me to take the examination. They arrested me in the
14 morning. And I told the attorney, you know, "At least
15 you report UTK I was arrested." They say, "You don't
16 need to worry. They already suspended you. I just got
17 their package. It's very thick." I say, "What's that?"
18 They say, "You are" -- "You needed to reply to the
19 university within 48 hours; otherwise, we consider you
02:54PM 20 was terminated and you give up all their" -- basically
21 they say, "You need to explain why you are arrested
22 within 48" --

23 Q. Why you were arrested?

24 A. Yeah, why you are arrested within the 48 hours.
25 That's when I get nervous. You know, I said, "I don't

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1 have their" -- "any position in China." So
2 that's -- that's what I say. You know, I repeat several
3 (unintelligible).

4 Q. Excuse me? I'm sorry.

5 Did anybody advise you that you were being
6 accused of having employment in China during that time?

7 A. At that time that attorney quickly read the
8 indictment, and he give me -- I even -- I even --
9 because before me is one --vthe indictment and one is a
02:55PM 10 very thick, about a 70-page -- 70-page letter. Included
11 a document from the UTK. That's the 48 hours I needed
12 to reply.

13 And then I -- they even not give me, just show
14 me, and they send me to jail. I even don't know what
15 happened. In jail, I even don't know what did they
16 indict me.

17 Q. Why were you concerned about telling UT that
18 you didn't have a position at that time?

19 A. At that time, the attorney, he not explain why
02:55PM 20 you are arrested. UTK consider you give up to explain,
21 or something like that. I cannot remember clear the
22 letter. Basic meaning is like that.

23 Q. Did you have a chance to read the indictment?

24 A. That time was a very, very short time. You
25 know, a lot of the words I don't understand. You know,

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1 that's the first time I -- when the agent arrest me,
2 they -- when they told me you are arrested by the false
3 statement, I can understand false statement. But when
4 he told me the wire fraud, I really don't know what it
5 means, the wire fraud.

6 Q. Were you told that your false statement was
7 that you did not have a job at BJUT?

8 A. Yeah, that's what the -- that's what the lawyer
9 giving me, like, explanation.

02:56PM 10 Q. That's the court-appointed attorney?

11 A. Yeah, court-appointed attorney told me
12 you -- because you have a position in China.

13 Q. Position?

14 A. Yeah. They accuse you like that. You told a
15 false statement and caused the wire fraud to happen.

16 Q. That's why you were concerned about --

17 A. That's correct.

18 Q. -- letting everybody know you didn't have a
19 contract?

02:56PM 20 A. Yeah, that's -- I think that's -- already I
21 wanted the -- I wanted UTK to know, you know, because I
22 need the teaching, even student awaiting. UTK not give
23 me any hints of asking like that.

24 Q. So at any time did anybody look at your outside
25 interest disclosures or your activity reports and tell

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1 you that you needed to explain why you didn't put down
2 your affiliations with BJUT?

3 A. No.

4 Q. Would you have put them down if somebody told
5 you?

6 A. I don't think that even I -- you know,
7 basically that's from my guessing. I -- you know, I --
8 because, you know, nobody ask me. I mean, every year I
9 reported many times. That's what I understand. This
02:58PM 10 form was just a conflict of interest. Another form is
11 the activity detail.

12 Q. If there had been a form or a question on the
13 NASA grant about employment in China of any kind --

14 A. Yeah.

15 Q. -- would you have deliberately hid that?

16 A. No, I don't think there are that. You know,
17 what I understand is: I cannot in the grant, in the
18 NASA grant, involve the China institute. So that don't
19 mean that I'm not -- otherwise, you know, Dr. Bar-Cohen
02:58PM 20 or the Drew Haswell should have seen -- or should have
21 tell me I cannot apply. I wish someone can tell me I'm
22 not qualified or something; stop me.

23 Q. So you learned that definition of a NASA grant
24 from Drew Haswell and Dr. Bar-Cohen?

25 A. Yeah, that's from the long -- the several

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1 emails. That's generally what I understand.

2 Q. As long as you didn't involve somebody in the
3 grant, somebody from China in the grant, that's all you
4 had to do?

5 A. That's correct, yeah. That's what I
6 understand, like, based on that.

7 MR. LOMONACO: 21? Yeah.

8 BY MR. ARROWOOD:

9 Q. Let me show you Exhibit 21. I think it's
10 already been marked.

11 How many NSF grants did you have?

12 A. Roughly, I have probably 15 proposals. I don't
13 have the -- I only have the one small NSF grant that UTK
14 funded me.

15 Q. 16 proposals?

16 A. 16 proposals, yes.

17 Q. And is there a section in here where they ask
18 you to expose -- to explain your collaborations?

19 A. Yes. If -- can you go to second page?

20 Yeah, like this one is from -- those are from
21 2016. They ask each proposal. We have to fill in this
22 form. This form called Collaborators & Other
23 Affiliations.

24 Q. Okay.

25 A. Yeah.

02:59PM

03:00PM

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1 Q. So you've got Bai, Shi here, Beijing University
2 of Technology is the organization. You've got her --
3 her or him marked as a collaborator, and you worked with
4 him on his thesis, too?

5 A. Yes, you know, Bai, Shi is the Ph.D. student in
6 the BJUT. So I marked that as his supervisor, me. You
7 know, that consider my short-term -- the contract or the
8 position in the BJUT.

9 Q. And you filled out many of these over the
10 years; right?

03:00PM

11 A. Almost all I did if I have those affiliations.
12 So not only the BJUT, also other Chinese universities
13 already there.

14 Q. You've got Harvard up there?

15 A. Yeah, included the U.S., the other
16 universities. Harvard.

17 Q. Canada?

18 A. Canada. And Japan, Germany. A lot of them
19 from UTK, and also they're from the different Chinese
20 universities, as I mentioned before.

03:01PM

21 Q. A few more from Beijing University?

22 A. Yeah.

23 MR. LOMONACO: Excuse me one moment.

24 Okay. If we can put activity report No. --

25 MR. PARSONS: 2013.

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1 MR. LOMONACO: 2013-'14. What's the number?

2 MR. PARSONS: 2.

3 MR. LOMONACO: 2 on the screen.

4 I'd ask that this activity report for 2013 be
5 introduced as an exhibit.

6 THE COURT: What's the -- Defendant's
7 Exhibit 2?

8 MR. LOMONACO: Yes, Your Honor.

9 THE COURT: It's not been introduced yet?

03:02PM 10 MR. LOMONACO: Not yet.

11 THE COURT: All right. So admitted.

12 (Defendant's Exhibit 2 was marked and received
13 into evidence.)

14 BY MR. LOMONACO:

15 Q. And just briefly, these are your faculty
16 activity reports you filed every year; right?

17 A. Yes.

18 MR. LOMONACO: Go ahead. Let's find the
19 relevant spots we're talking about here.

03:02PM 20 BY MR. LOMONACO:

21 Q. Okay. So, Research. Journal Publications.
22 When you do a publication, you report what; who you
23 collaborated with?

24 A. Yeah. So those are from the publication we
25 reported our -- all the work I do, you know, including

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1 UTK work and also outside work. Those are included, the
2 BJUT student that did the work. If there is my name, I
3 report that.

4 Q. Okay. And here we've got -- let me
5 see -- Manuscripts Submitted. So these are possibly not
6 quite finished documents; is that right?

7 A. Yeah, that's correct. Those is the -- the
8 paper we -- on the preparation. This is not submitted
9 yet.

03:03PM 10 Q. Who are these people that are in this report
11 with you?

12 A. Yeah. So the first paper is the visiting
13 student from the Nanjing University. Second one is the
14 student from the BJUT. The third one is the work from
15 the collaboration with the University of Waterloo,
16 Canada. Last one is also the -- the three and fourth,
17 both are from University of Waterloo. Those two
18 students is Ph.D. students that I work with in Waterloo.
19 They're under my supervision.

03:03PM 20 Q. So when you have visiting scholars from China
21 working --

22 A. Yeah.

23 Q. -- in your lab at UT, and you do that
24 consistently year in and year out --

25 A. That's right.

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1 Q. -- should your supervisors and other faculty
2 realize that you've got collaborations or affiliations?

3 MR. MC KENZIE: Objection, Your Honor, as to
4 what someone should or should not think.

5 BY MR. LOMONACO:

6 Q. Does that demonstrate affiliation or
7 collaboration?

8 A. Those are the -- my department head know those,
9 yes. Those are basically reported to the department
10 head.

03:04PM

11 MR. LOMONACO: Okay. Keep going.

12 BY MR. LOMONACO:

13 Q. That's Marshall Mench?

14 A. Dr. Marshall Mench. That's included as some
15 review, a grant review. You ask me for government
16 grant, all the other government grant. And also some of
17 their visiting student, you know, from China,
18 and -- yeah.

19 Q. So you've got here Chinese government
20 scholarship, Chinese collaboration; is that what that
21 says?

03:04PM

22 A. Yes, those are the graduate student work in the
23 UTK. If they're funded by the UTK or U.S., the fund, I
24 list that. But if they're not, they're funded by U.S.,
25 I list it as other.

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1 And see the Chinese scholarship or Chinese
2 fund. Chinese fund basically mean the Chinese
3 researcher fund.

4 MR. LOMONACO: Okay. Is there a link on this
5 one?

6 Okay. That's the other one we haven't
7 admitted?

8 Okay. Let's go to the next one then, year
9 2014-'15. And if we could admit that, the next exhibit,
03:05PM 10 as Exhibit 3, Annual Activity Report, 2014-2015.

11 And just scroll down to some of this and we can
12 wrap it up here.

13 BY MR. LOMONACO:

14 Q. And, again, you're reporting what here;
15 research?

16 A. Yes, research paper. And those colored part is
17 from the BJUT.

18 Q. The green?

19 A. Yeah, green -- green part is from the BJUT
03:06PM 20 student.

21 Q. Well, how's somebody to know that that's from a
22 BJUT student if it doesn't say BJUT in it?

23 A. Yeah, those are pretty easy. For their
24 department, we know the paper. We know the -- like
25 those are small. Like, those are citation detail. It's

1 pretty easy. You go to that website and you can
2 immediately find who affiliated with institute and
3 research and funding, which research funding funded that
4 work.

5 Q. So if I understand you correctly, you're saying
6 if you put the name of this into the website, it will
7 pull up the whole publication?

8 A. Exactly.

9 Q. And it will have your name, BJUT, or whatever?

03:07PM 10 A. That's correct. That's correct.

11 Q. Here are some more China funds where these
12 students are being paid their tuition by China
13 (indicating); correct?

14 A. Those are students that are -- they are --
15 their salary paid by China. It's not a tuition.
16 Because those students -- UT cannot ask them to pay
17 tuition. They're considered a research scholar.

18 Q. So they come over from China or wherever and
19 they work at UT in the laboratories doing research with
03:07PM 20 you --

21 A. Yes.

22 Q. -- helping you?

23 A. Yes.

24 Q. They're learning, but they're helping you get
25 stuff done?

DIRECT EXAMINATION - ANMING HU

1 A. Yes.

2 Q. And they're not paid to do that by UT?

3 A. Yeah, UT -- UT cannot pay them. So they go to
4 the Chinese to service their UTK projects, basically.

5 Q. Does that help you?

6 A. Of course. It help a lot. So that's -- the
7 department encourage us. Without, satisfy --
8 satisfact- -- without sacrifice, UTK have commitment we
9 can do like this. Because this really benefit our

03:08PM 10 research. So, you know, I have limited fund. I have a
11 lot of idea that needed to test. So I want student that
12 can do more, but I don't have enough student.

13 Q. So UT encourages you to bring in free labor,
14 basically?

15 A. Basically like that.

16 Q. People with Ph.D.s?

17 A. Yes, those are even not with Ph.D. They're
18 still --

19 Q. Ph.D. student?

03:08PM 20 A. Ph.D. students, yes. Those are the really good
21 students.

22 Q. Here is an invited seminar (indicating). Now,
23 we heard Special Agent Sadiku talk about invited as that
24 means maybe they just had an invitation. Is that what
25 that means?

DIRECT EXAMINATION - ANMING HU

1 A. Yes. Like those, some are from their -- from
2 the -- you know, Switzerland or from China. So those
3 means, you know, at least in their field. I already
4 build the international reputation. UTK felt happy with
5 those. That's really why they ask we needed to report
6 it. So they say, okay, you are good.

7 Q. So let's talk about that. It says Professional
8 Outreach?

9 A. Yeah.

03:09PM 10 Q. And when it says Invited Seminars, are those
11 ones that you actually went to?

12 A. Yes, if I'm not -- if I get invitation, if I
13 not go, I will not report it. Those are basically like
14 nothing. I mean, they invited you, you not go, then
15 those are already --

16 Q. These are the ones you go to?

17 A. Yeah, I already finished them.

18 Q. Okay.

19 A. Yeah.

03:10PM 20 Q. Okay. Professor Hu, I think -- I think maybe
21 the government will have some questions for you.

22 THE COURT: All right. Before that -- that
23 concludes the direct examination -- we'll go ahead and
24 take an afternoon break, 15 minutes.

25 (Jurors excused from the courtroom.)

CROSS-EXAMINATION - ANMING HU

1 THE COURTROOM DEPUTY: This honorable court
2 stands in recess until 3:25.

3 (A brief recess was taken.)

4 THE COURTROOM DEPUTY: This honorable court is
5 again in session.

6 THE COURT: Thank you. We'll bring our jury
7 back in.

8 (Whereupon the following report of
9 proceedings was had within the presence
10 and hearing of the jury:)

03:33PM

11 THE COURT: Thank you. Everyone, please be
12 seated and we'll begin cross-examination.

13 CROSS-EXAMINATION

14 BY MR. MC KENZIE:

15 Q. Good afternoon, Dr. Hu.

16 A. Good afternoon.

17 Q. My name is Matthew McKenzie. This is the first
18 time that we've spoken; correct?

19 A. Yes.

03:33PM

20 Q. I will speak slowly.

21 A. Okay.

22 Q. If I ask you a question that you don't
23 understand, please ask me to clarify; all right?

24 A. Sure.

25 Q. I'm not going to ask you any trick questions;

1 okay?

2 A. Okay. I hope.

3 Q. We have not talked about the questions that I'm
4 going to ask you before today; correct?

5 A. Yes.

6 Q. You don't know what I'm about to ask you;
7 correct?

8 A. Yes.

9 Q. And I don't know what answers you are going to
03:34PM 10 give; correct?

11 A. I don't know. How I can know; right?

12 Q. Before today, you did talk to your counsel
13 about your testimony today; correct?

14 A. Correct.

15 Q. He told you the questions that he was going to
16 ask; right?

17 A. Yeah.

18 Q. And you talked about the answers that you were
19 going to give; right?

03:34PM 20 A. Yes.

21 Q. And he talked to you about some of the
22 questions that I might ask you; right?

23 A. Yes.

24 Q. And he talked to you about the answers that you
25 would give to my questions; correct?

CROSS-EXAMINATION - ANMING HU

1 A. I don't know your questions. Can you explain?

2 Q. That's okay.

3 You are a professional scientist; correct?

4 A. Will you repeat?

5 Q. You are a professional scientist; correct?

6 A. Yes.

7 Q. You are a professional researcher; right?

8 A. Yes.

9 Q. You have a Ph.D. in physics from the Chinese

03:35PM 10 Academy of Sciences; correct?

11 A. Yes.

12 Q. And you have a Ph.D. in laser physics from

13 Waterloo University in Canada; correct?

14 A. Yes.

15 Q. And you testified earlier that you specialize

16 in nanoparticles; correct?

17 A. Yes.

18 Q. And nanoparticles are very small; correct?

19 A. Yes.

03:35PM 20 Q. And you conduct research about how to -- is it

21 weld using nanoparticles?

22 A. Yes, that's -- weld is my research field.

23 Q. And as part of that research --

24 A. Yes.

25 Q. -- you work in laboratories; correct?

1 A. Yes.

2 Q. And you conduct scientific experiments;
3 correct?

4 A. Yes.

5 Q. And it's important for your research for you to
6 be precise; correct?

7 A. Can you explain what's you mean "precise"?

8 Q. Sure. When you are conducting experiments, one
9 of the things that you want to do is control the
03:36PM 10 variables; correct?

11 A. Yes.

12 Q. You don't want too many unknown variables;
13 correct?

14 A. Yeah. So -- sorry -- from my professional,
15 what I understand you, I don't want to control
16 everything. Sometime for research, we want some
17 nuisance. If I can control everything, that's useless.
18 I can't, from my understanding.

19 Q. But you want to know what the variable is;
03:37PM 20 correct?

21 A. Basically I agree.

22 Q. Because when you're doing research, what you're
23 trying to arrive at is an understanding of how the
24 physics work; correct?

25 A. Not only physics, I need an understanding of

1 science and nature.

2 Q. And you need to know how the nature truly
3 works; correct?

4 A. I don't understand this question. Sorry.

5 Q. The results of your -- of your experiments need
6 to reflect what you truthfully observe; correct?

7 A. Can I clarify what I understand? You are my
8 researcher; right? You want to tell me what I should
9 do; right? I want to just know.

03:38PM 10 Q. Yes, I'm talking about when you're -- when
11 you're conducting research, you are looking to obtain
12 objectively true results about how physics work;
13 correct?

14 A. Actually.

15 Q. Okay. And you --

16 A. Did I answer correct?

17 Q. When you record the results of your
18 experiments, you record them accurately; correct?

19 A. Can you explain that? I didn't get that last
03:38PM 20 one. I'm sorry. I didn't -- I don't want to -- I try
21 to understand you.

22 Q. Perhaps I'm speaking too fast and I apologize.
23 I'm truly not trying to be confusing.

24 After you conduct an experiment, you record the
25 results of the experiment accurately; correct?

1 A. Yes.

2 Q. Because it's important for the research and for
3 the science for your statements to be a truthful
4 reflection of what you observed; correct?

5 A. I'm sorry. For those -- the answer from the
6 science research, again, I already tell you, we know the
7 uncertainty. We not expect everything before I do
8 already know the result. That's basically to respond to
9 your question. That's not mean I know all the other
10 things. We do the research. I teach the student is:

03:39PM

11 We expect new things, and when new things are find, we
12 need to explain that. It's not that we try to falsely
13 do something. That's not the research.

14 Q. Right.

15 A. Okay. Yeah.

16 Q. And you try to explain it accurately; correct?

17 A. Okay. Yes.

18 Q. You began your professional career in 1997 as a
19 postdoctoral fellow in Spain; is that right?

03:40PM

20 A. Yes.

21 Q. And since 1997, you have been engaged in
22 scientific research for one university or another or one
23 organization or another ever since; correct?

24 A. Yes.

25 Q. Since 1997, you have been a professional

1 scientific researcher; correct?

2 A. Even before that, yeah.

3 Q. And you have conducted research in Spain?

4 A. Yes.

5 Q. You've conducted research in Germany?

6 A. Yes.

7 Q. You've conducted research in Japan?

8 A. Yes.

9 Q. You've conducted research in Canada; correct?

03:41PM 10 A. That's correct.

11 Q. And you've also conducted research
12 professionally here in the United States; right?

13 A. That's correct.

14 Q. And since 1997, you have had the opportunity to
15 apply for funding for your research; correct?

16 A. I started to apply for the funding probably
17 much later than that, yes.

18 Q. Do you know approximately when or what year was
19 the first year that you applied for funding for your
03:41PM 20 research? This isn't a trick question. Do you
21 remember?

22 A. I cannot remember clearly, but it was with the
23 University of Canada. So before, you know, I
24 seldom -- I may do the research, but seldom involved
25 with the application for funding.

CROSS-EXAMINATION - ANMING HU

1 Q. You've applied for grant funding in the United
2 States; correct?

3 A. Yes.

4 Q. While working for the University of Tennessee?

5 A. Correct.

6 Q. You've applied for grant funding from the NSF;
7 right?

8 A. Yes.

9 Q. You've applied for grant funding from NASA?

03:42PM 10 A. Yes.

11 Q. You've applied for grant funding from, is it
12 fair to say, several agencies; right?

13 A. Correct.

14 Q. And not every application you submit for a
15 proposal gets funded; right?

16 A. Correct.

17 Q. Research dollars are highly competitive;
18 correct?

19 A. That's correct.

03:43PM 20 Q. Many professors apply for a limited number of
21 grants; correct?

22 A. Correct.

23 Q. And part of your job as a researcher for the
24 University of Tennessee --

25 A. Yeah.

CROSS-EXAMINATION - ANMING HU

1 Q. -- is to apply for research funding; correct?

2 A. Correct.

3 Q. It is part of what you are evaluated upon;
4 right?

5 A. Yes.

6 Q. And receiving grant funding -- I'm going to
7 speak slow. This one might be a little bit of a complex
8 question. So I don't want it to be tricky. But working
9 on grants that have been funded from someone other than
03:44PM 10 the University of Tennessee is something that you are
11 evaluated on as a professor; correct?

12 A. Part of.

13 Q. It's part of the evaluation; correct?

14 A. Yes, that's correct.

15 Q. And you understand that grant funding is a
16 factor that is going to be considered on your annual
17 review; correct?

18 A. Yes.

19 Q. And you understand that grant funding is a
03:44PM 20 factor that contributes to whether or not a professor
21 receives tenure; correct?

22 A. Part of that.

23 Q. It's a factor?

24 A. It is a factor.

25 Q. It's not the entire decision, but it is a

1 factor; correct?

2 A. Yes.

3 Q. During direct examination --

4 A. Yes.

5 Q. -- you spoke about how it was good for you to
6 be invited to give international speeches; right?

7 A. Correct.

8 Q. And part of it is because it raises your
9 profile as a scientist; correct?

03:45PM 10 A. It's also contribute to UTK in the U.S.; right?

11 Q. Sure. But part of it is to raise your profile;
12 correct?

13 A. That's correct.

14 Q. And within the scientific community,
15 individuals such as Dr. Babu are well known for their
16 excellent research; correct?

17 A. Yes.

18 Q. And these well-known professors and researchers
19 get sought out to do additional high-profile jobs;
03:46PM 20 correct?

21 A. Yes.

22 Q. And they have more opportunity to work on
23 grants; correct?

24 A. Yes.

25 Q. And those grant dollars are -- I'm not sure if

CROSS-EXAMINATION - ANMING HU

1 you know the answer to that question; so I'm not going
2 to ask you.

3 And it's important for you to have a good
4 professional reputation; correct?

5 A. Yes.

6 Q. You want to have a good reputation here in the
7 University of Tennessee among your colleagues; correct?

8 A. Yes.

9 Q. And it's important for you to have a good
10 reputation internationally with your peers; correct?

03:47PM

11 A. Yes.

12 Q. And you mentioned during direct examination
13 that you began a relationship with Beijing University of
14 Technology in -- was it 2012 when you first formed a
15 relationship with them?

16 A. Yeah, roughly. Yeah, if I remember correctly.

17 Q. And did you say on direct examination that part
18 of why you joined -- or I'm going to rephrase this
19 question.

03:48PM

20 Part of the reason you formed that relationship
21 with Beijing University of Technology was to -- you
22 wanted to form a relationship with BJUT; right?

23 A. Yes.

24 Q. You wanted the professors at BJUT to understand
25 that you, too, were an excellent researcher; right?

CROSS-EXAMINATION - ANMING HU

1 A. So, can you repeat that -- this question?

2 Q. This relationship with BJUT --

3 A. Yes.

4 Q. -- was going to help you meet other professors
5 in your field; correct?

6 A. Yes.

7 Q. And it was going to help build your reputation
8 among fellow scientists in the field; correct?

9 A. Yes.

03:49PM 10 Q. Because BJUT is a good school; correct?

11 A. You know -- I mean, yeah, I should say that. I
12 don't want to say that it's a bad school.

13 Q. I mean, this is not a trick question. BJUT has
14 a good reputation for conducting scientific research;
15 correct?

16 A. Honestly, my understanding is it's not high. I
17 think of all the universities, can be a good university.
18 As a professor, we work each university to try to build
19 a good university, to become a good university, yeah.

03:49PM 20 Q. But you formed this relationship with BJUT in
21 order to enhance your reputation; correct?

22 A. Yeah. That's part of that, yeah.

23 Q. And as part of building your resume, you would
24 give speeches in the United States, correct, or give
25 lectures in the United States; right?

1 A. Yes.

2 Q. And you would give them in China; correct?

3 A. Yes.

4 Q. Is it fair to say that you would travel
5 basically anywhere where there was a reputable
6 convention and give a lecture if you were invited;
7 correct? If it fit your schedule?

8 A. If it fit my schedule and also there are kind
9 contributed to science.

03:50PM 10 Q. And that is normal practice in the scientific
11 field, as you understand it; correct?

12 A. Yes.

13 Q. That is something that scientists all over the
14 world do on a regular basis; right?

15 A. Yes.

16 Q. And you know that?

17 A. Yes.

18 Q. And you know that these lectures are good for
19 your career; correct?

03:51PM 20 A. Yes.

21 Q. And you write them down on your resume;
22 correct?

23 A. Unnecessary.

24 Q. What was that?

25 A. Unnecessary. Unnecessary.

CROSS-EXAMINATION - ANMING HU

1 Q. I didn't ask whether it was necessary. I'm
2 sorry.

3 A. Are you asking me, are you put on the resume;
4 right?

5 Q. You do some of them. Some of these lectures
6 you write on your resume; correct?

7 A. Some of them.

8 Q. Yes.

9 A. Correct, yeah.

03:51PM 10 Q. I didn't say they were necessary, but some of
11 them you write down; right?

12 A. You try to ask me is all I have to write it in
13 resume? I just wanted to clarify.

14 Q. No, I didn't suggest you had to.

15 A. Okay.

16 Q. I just -- you do, or at least you have?

17 A. Some of them. Because I have many, I cannot
18 include all.

19 Q. And you report those, those talks --

03:52PM 20 A. Yeah.

21 Q. -- in your annual review; correct?

22 A. Yeah.

23 Q. And at least a portion of those talks you
24 reported in your tenure package; correct?

25 A. Yes.

1 Q. And these talks help advance your career;
2 correct?

3 A. Yes.

4 Q. It makes -- it allows your peers to evaluate
5 you and know that you are succeeding in your career;
6 correct?

7 A. Yes.

8 MR. MC KENZIE: I would like to show the
9 witness what is in evidence as Government's Exhibit 2-C.

03:52PM 10 BY MR. MC KENZIE:

11 Q. I'm showing you what is in evidence as 2-C.

12 MR. LOMONACO: Z?

13 MR. MC KENZIE: C, as in Charlie.

14 BY MR. MC KENZIE:

15 Q. This is the dossier that was submitted in your
16 tenure application; correct?

17 A. Yes.

18 Q. And you compiled this information; correct?

19 A. Yes.

03:53PM 20 Q. You decided what information would be included
21 in this document; correct?

22 A. That's correct.

23 Q. And at the time you submitted this document,
24 you understood that this document would be used, in
25 part, to evaluate whether or not you received tenure;

1 correct?

2 A. That's correct.

3 Q. And you wanted to receive tenure; correct?

4 A. Yes, that's --

5 Q. That wasn't a trick question either. Tenure is
6 a good thing for a professor; correct?

7 A. That's part of our career.

8 Q. Right. It has a lot more job stability;
9 correct?

03:54PM 10 A. Not necessarily. So that's certain career
11 stage. So once we finish the certain years of teaching,
12 we needed to apply. If I not apply -- I can't refuse to
13 apply -- then I have to leave.

14 MR. MC KENZIE: Could I direct the witness's
15 attention to page -- I'm going to use the nomenclature
16 in the document. It's E-1.

17 All right. Can we blow up the top part of
18 that.

19 BY MR. MC KENZIE:

03:55PM 20 Q. Directing your attention to the left side of
21 your screen.

22 A. Yeah.

23 Q. That is your signature; correct?

24 A. Correct.

25 Q. And you signed this on September 21st, 2018?

1 A. Yes.

2 Q. And before signing this document, you read the
3 sentence that is directly above your signature?

4 A. Yes. You want me to read that; right?

5 Q. Well, you read it in 2018; correct?

6 A. Yeah, so -- yes.

7 Q. I'm not going to ask you to read that to the
8 jury. But you read it before you signed it; correct?

9 A. Yes.

03:56PM 10 Q. I'd like to direct your attention to D-8, which
11 should be probably two pages up when you scroll up, and
12 I'd like to go to the section -- or one more page up to
13 Grant Proposals.

14 As part of your tenure package, you disclosed
15 to the university a number of professional activities
16 that you participated in; correct?

17 A. Yes.

18 Q. And part of what you disclosed was your
19 participation in reviewing grant proposals; correct?

03:57PM 20 A. Yes.

21 Q. And you would agree with me that you were
22 encouraged by the university to participate in these
23 grant proposals, reviewing grant proposals for other
24 organizations; correct?

25 A. Yes.

1 Q. It's almost like community service for a
2 professor; correct? It helps the scientific community
3 by you participating in this; correct?

4 A. Yes.

5 Q. And you list your role in reviewing these grant
6 proposals on the right side of the screen; correct?

7 A. Yes.

8 Q. One role that you held over the years is an ad
9 hoc reviewer; correct?

03:58PM 10 A. Yeah.

11 Q. Another position that you held over the years
12 was reviewing panelist; correct?

13 A. Yes.

14 Q. And on the left, you list the organizations for
15 whom you conducted this review; correct?

16 A. Yes.

17 Q. And as part of the -- as a reviewer, as an ad
18 hoc reviewer for a -- for grant proposals, you were
19 asked to read grant submissions or grant proposals;
03:58PM 20 correct?

21 A. Yes.

22 Q. And your job was to review them for their
23 scientific merit; correct?

24 A. Yes.

25 MR. MC KENZIE: So we'll just turn to the top,

1 the top program.

2 BY MR. MC KENZIE:

3 Q. Does that say Nature Science Engineering
4 Research Council?

5 A. Yes.

6 Q. So in September of 2014, the Nature Science
7 Engineering Research Council asks you to review grants,
8 grant proposals, on their behalf; correct?

9 A. Yeah, usually they invited me earlier than
10 that. That means during that period I review.

03:59PM

11 Q. Sure. So sometime prior to that date, they
12 asked you, and then you agreed, and then you conducted
13 this service in September of 2014; correct?

14 A. Yes.

15 Q. And you reviewed grant proposals?

16 A. Yes.

17 Q. Now, you didn't sign a contract with Nature
18 Science Engineering Research Council; correct?

19 A. Some of the -- some review need the -- you
20 know, we need sign some form; for example, to keep the
21 secret or something, we really need to sign something.

04:00PM

22 Q. Again, like, are you referring to, like, a
23 confidentiality agreement?

24 A. Yeah, something like that, or they also will
25 ask me to sign the -- whether you can refuse the

CROSS-EXAMINATION - ANMING HU

1 opportunity or you have to commit with that.

2 Q. Okay. But you didn't have to sign an
3 employment contract to work for Nature Science
4 Engineering Research Council; correct?

5 A. So those -- yeah, I don't think that's
6 considered -- considered contract -- I mean, a
7 commitment, let's say. This is a commitment.

8 Q. The Nature Science Engineering Research Council
9 didn't give you an email address with the Nature Science
04:01PM 10 Engineering Research Council; correct?

11 A. Can you repeat? I mean, that question, I don't
12 know how to answer you.

13 Q. When you were -- when you got a job at the
14 University of Tennessee --

15 A. Yes.

16 Q. -- they provided you with an email address;
17 correct?

18 A. Yes.

19 Q. And that was an email address that you could
04:01PM 20 use to send and receive email; correct?

21 A. Yes.

22 Q. In your role as an ad hoc reviewer for the
23 Nature Science Engineering Research Council --

24 A. Yeah.

25 Q. -- they did not provide you with an email

1 address; correct?

2 A. Email not -- whether I have an email is not
3 relation -- no relation with this commitment.

4 Q. Right.

5 A. Whether I have an email or don't have email,
6 this are two unrelative things. I don't know whether I
7 answer your question. I'm just trying to understand
8 you.

9 Q. This is a yes-or-no question, and perhaps it's
04:02PM 10 confusing. I apologize. But, for example, they did not
11 give you an email address,
12 anminghu@natureengineeringresearchcouncil.com;
13 correct?

14 A. Some of their -- some of their agent during
15 that period, they will ask me use a special email or
16 something like that because I have to log in. So they
17 will give you -- give me. But that not means that it's
18 a -- not mean too much thing is how I want to answer
19 you.

04:02PM 20 Q. They did not give you a business card; correct?

21 A. Business card -- business card, we can make it;
22 right? So it's the people -- it's the -- we -- I don't
23 know the -- how I can answer you. The business card
24 is a -- have to be given by those organizations?

25 Q. Right. Did the Nature Science Engineering

CROSS-EXAMINATION - ANMING HU

1 Research Council give you a business card that said,
2 Anming Hu, Ad Hoc Reviewer, with their logo on the card?

3 A. I cannot answer those questions.

4 Q. I'm not going to go through all of these
5 questions for each one of the programs listed under this
6 section, but is it fair to say that your role with each
7 of these organizations was to review grant proposals?

8 A. That's correct. This is a short-term service.

9 MR. MC KENZIE: I'd like to direct the

04:04PM 10 defendant's attention to page C-11 using this
11 nomenclature. And at the top of the page, it will say,
12 Projects, Grants and Contracts.

13 BY MR. MC KENZIE:

14 Q. I am showing you another section of the dossier
15 that you prepared for tenure. Do you see the section
16 that says Completed Grants?

17 A. Yes.

18 Q. And then underneath, it has a list of grants
19 that you had been awarded; correct?

04:05PM 20 A. Yes.

21 Q. It tells you the sponsor of those grants;
22 correct?

23 A. Yes.

24 Q. And it tells you the total amount of grant
25 funding that you were awarded; correct?

1 A. Yes.

2 Q. And these grants in this section are grants
3 that were completed at the time you were applying for
4 tenure; correct?

5 A. Yes.

6 Q. I'd like to direct your attention to the award
7 from JPL and NASA.

8 MR. MC KENZIE: And could we blow up this -- or
9 make this line larger to make sure that he can see?

04:05PM 10 BY MR. MC KENZIE:

11 Q. Right in this box (indicating) --

12 A. Yes.

13 Q. -- that \$60,000 represents the amount of money
14 that the university received pursuant to this grant;
15 correct?

16 A. Yes.

17 MR. MC KENZIE: All right. You can zoom back
18 out. And scroll up a little bit for Completed Grants.
19 No, up. Other way.

04:06PM 20 BY MR. MC KENZIE:

21 Q. Looking at your completed grants --

22 A. Yes.

23 Q. -- that you submitted at the time that you
24 applied for tenure --

25 A. Yeah.

CROSS-EXAMINATION - ANMING HU

1 Q. -- the largest grant that you had been awarded
2 and completed was the JPL-NASA grant; correct?

3 A. Yeah, because that is the only one year. As of
4 that year, for complete, that's big, but it's not mean
5 it's the biggest.

6 Q. That's the biggest one listed here for
7 completed grants; correct?

8 A. That's correct, for the completed.

9 MR. MC KENZIE: Can we please scroll down to
04:07PM 10 the next section.

11 BY MR. MC KENZIE:

12 Q. The next section is for current grants;
13 correct?

14 A. Yeah.

15 Q. And this -- this table is similar to the table
16 of the Completed grants section in terms of format;
17 correct?

18 A. This one called the Current.

19 Q. Yes.

04:07PM 20 A. Current means it's not finished.

21 Q. So these are the grants that you were working
22 on at the time you submitted your tenure application;
23 correct?

24 A. Yes.

25 Q. And I'd like to direct your attention to the

1 bottom -- the bottom row.

2 Who was the sponsor for this grant?

3 A. Yeah, this is NASA.

4 Q. And what is the total -- the total for this
5 grant?

6 A. This one is -- in the beginning, we consider
7 that. This number is not correct. You know this;
8 right?

9 Q. Yes, yes. But listed here is 140; correct?

04:08PM 10 A. Yeah, that is the number listed, but this is
11 not true. I know we needed to correct that.

12 Q. You're anticipating my questions. But listed
13 here, it says 140; correct?

14 A. Yes.

15 Q. Now, there did come a time --

16 A. Yeah.

17 Q. -- when you were a principal investigator
18 for -- in a contract with NASA's Marshall Space Flight
19 Center; correct?

04:08PM 20 A. Yeah.

21 Q. And there was a contract signed; right?

22 A. Yes.

23 Q. But the total was not 140; correct?

24 A. Yes. So this amount -- do you want me to
25 explain that, or you don't want?

1 Q. During cross-examination, I'll ask short
2 questions and then I will ask a series of short
3 questions, and if there is something that you don't feel
4 like I'm allowing you to explain, let me know, but --

5 A. I can tell you this number is not correct.

6 Q. That's what I'm -- it's not correct; right?

7 A. Okay.

8 Q. The ultimate number that the university
9 received was closer to \$50,000; right?

04:09PM 10 A. Yeah.

11 Q. Okay. But that grant was listed in your tenure
12 package; correct?

13 A. Yes.

14 Q. You understood that you were being evaluated
15 upon the grants that you were bringing in to the
16 university; correct?

17 A. Yeah.

18 Q. I'm going to direct your attention to page B-7
19 using this nomenclature.

04:10PM 20 MR. MC KENZIE: No, no, page B-7 of the same
21 exhibit. I'm sorry, April. I was unclear.

22 Okay. Can we please scroll down to the
23 Postdoctoral Researchers section.

24 BY MR. MC KENZIE:

25 Q. Dr. Hu, do you see the section of this document

1 that says Postdoctoral Researchers?

2 A. Yes.

3 Q. You filled out this section; correct?

4 A. Correct.

5 Q. And in this section, you listed the students
6 that you -- or the postdoctoral researchers who you were
7 supervising; correct?

8 A. That's correct.

9 Q. And these are postdoctoral researchers that you
04:11PM 10 were supervising here at the University of Tennessee;
11 correct?

12 A. This one, I also supervise him at BJUT
13 (indicating).

14 Q. Mr. Delong Ma?

15 A. Yes.

16 Q. You supervised him while he was in China?

17 A. Yes.

18 Q. And you supervised him while he was here --

19 A. Yes.

04:11PM 20 Q. -- in the University of Tennessee?

21 A. Yeah, as a visiting postdoc.

22 Q. And Dr. Woo Kil Jang -- did I say that right?

23 Or Jang.

24 A. That's the only -- he's from the POSCO. It's
25 only UTK.

CROSS-EXAMINATION - ANMING HU

1 Q. So you supervised him at the University of
2 Tennessee?

3 A. Correct.

4 Q. And Dr. Yangbo Deng?

5 A. Only in the UTK.

6 Q. And let's focus on Dr. Deng for a moment.

7 Dr. Deng works or came to work under you from Hunan City
8 University; correct?

9 A. Yes.

04:12PM 10 Q. And Hunan City University presumably is in
11 Hunan City in China?

12 A. It's in China, yes.

13 Q. Right. And you don't work for Hunan City
14 University; correct?

15 A. Yes, no.

16 Q. You don't hold any titles with Hunan City
17 University; correct?

18 A. Yes.

19 Q. You don't have a Hunan City University business
04:13PM 20 card?

21 A. No, I don't.

22 MR. MC KENZIE: Could we please scroll up to --

23 BY MR. MC KENZIE:

24 Q. You don't have a business -- you don't have an
25 employment contract with Hunan City University; correct?

CROSS-EXAMINATION - ANMING HU

1 A. No, I only have it with BJUT.

2 Q. So under Visiting Ph.D. students -- do you see
3 this indicated at the top of the screen?

4 A. Yeah.

5 Q. You filled this section out; correct?

6 A. Yes.

7 Q. And these are international students who came
8 to the University of Tennessee to study; correct?

9 A. Yes.

04:13PM 10 Q. And you supervised their studies; correct?

11 A. Yes.

12 Q. And this is encouraged by the University of
13 Tennessee; correct?

14 A. Yes.

15 Q. This is good for the University of Tennessee to
16 bring these international students to the University of
17 Tennessee; correct?

18 A. But this also show I have those collaboration.

19 Q. Okay. My question was slightly different and
04:14PM 20 slightly more specific.

21 You were encouraged to supervise visiting Ph.D.
22 students; correct?

23 A. These have -- does this have problem? Does
24 this have problem? Yes.

25 Q. So I don't think there is a problem. You were

1 encouraged to do this; correct?

2 A. Yes.

3 Q. This is good; correct?

4 A. Yes.

5 Q. International collaboration with students from
6 other universities is normal in academia; correct?

7 A. Through this, I show UTK I have those
8 collaboration.

9 Q. That's not my question.

04:15PM 10 And this is really not a trick question or
11 trying to harm you. I'm just trying to establish that
12 it is normal for U.S. professors to supervise
13 international visiting Ph.D. students; correct?

14 A. Do you allow me to explain what means, a
15 visiting student, a visiting scholar?

16 Q. A visiting scholar is a student at another
17 university; correct?

18 A. Yeah.

19 Q. And they come to -- they come to the University
04:15PM 20 of Tennessee; correct?

21 A. You know how we -- how I can bring those
22 visiting students to come to UTK?

23 Q. I can tell that you want to say this, so please
24 explain to the jury the process of how you bring
25 visiting students over.

CROSS-EXAMINATION - ANMING HU

1 A. Okay. You know, as the normal, the regular
2 professor, we are encouraged to have international
3 collaboration. If I want to bring those visiting
4 students to come to UTK, I have to submit their CV,
5 their financial letters because I'm not supposed to pay
6 those students. It's the Chinese side, whether they are
7 university or other agent want to pay them.

8 All the information I have to submit to UTK to
9 my department head, and the department head will approve
04:16PM 10 that. Then they will sign and write the letter, and all
11 those documents will be to the UTK, another department
12 called the International Education Center. They handle
13 the visa procedure.

14 So they will agree if anything have the problem
15 here, they will question me or they will stop. I don't
16 have ability to bring those students without fully
17 disclose my relationship with those students.

18 So what I mean, in fact, the BJUT, the UTK know
19 I'm the supervisor. I agree with you other -- I not
04:17PM 20 have the appraising everything. But I do have the
21 appraising at BJUT. Sorry.

22 Q. So this, supervising Ph.D. students, is
23 something that you are evaluated upon; correct?

24 A. Yes.

25 Q. And it is a positive thing that you are

1 evaluated upon; correct?

2 A. Yes.

3 Q. This weighs in favor of you getting tenure;
4 correct?

5 A. Yeah, that's what I understand.

6 Q. Yes. It's a good thing for your career,
7 correct, to have visiting Ph.D. students?

8 A. No, I doubt it, really.

9 Q. Okay. All right. We'll drop it.

04:17PM 10 A. It's fine if I answer that. I really doubt
11 this.

12 Q. Okay. I'd like to direct your attention to
13 where it says --

14 MR. LOMONACO: I'm sorry. I'm not sure what he
15 said. He said he doubts it?

16 MR. MC KENZIE: He said he doubted --

17 BY THE WITNESS:

18 A. I doubt this activity, you know --

19 BY MR. MC KENZIE:

04:18PM 20 Q. Is good for your career?

21 A. Yeah, it's good for career. In fact, it's kill
22 my career.

23 Q. Okay.

24 A. My career already killed.

25 Q. Okay. I'm going to direct your attention to

CROSS-EXAMINATION - ANMING HU

1 the top right corner where it says Nanjing Aeronautics
2 and Astronautics University. That is a university
3 presumably in Nanjing, China; correct?

4 A. Yes.

5 Q. You don't work at Nanjing Aeronautics and
6 Astronautics University; correct?

7 A. This one, no.

8 Q. You do not have a title from this university;
9 correct?

04:18PM 10 A. No.

11 Q. You do not have an email address from this
12 university; correct?

13 A. Yes.

14 Q. You do not have a business card from this
15 university; correct?

16 A. Yes.

17 Q. And similarly, you do not work for Nanjing
18 University; correct?

19 A. Yes.

04:19PM 20 Q. You do not work for -- will you please help me
21 out and read this university for the jury?

22 A. Yeah, this is Sihuan University.

23 Q. Thank you.

24 And you don't work for Sihuan University in
25 Nanjing; correct?

CROSS-EXAMINATION - ANMING HU

1 A. This one I have the guest professorship there.

2 Q. At Sihuan University in Nanjing?

3 A. Yes. I think when their agent arrest me, they
4 should see the certificate.

5 MR. MC KENZIE: Can we scroll up, please.

6 BY MR. MC KENZIE:

7 Q. I'd like to direct your attention now to page
8 A-6.

9 MR. MC KENZIE: Scroll down to Employment
04:20PM 10 History.

11 BY MR. MC KENZIE:

12 Q. On the top line under Employment History --
13 first, did you fill this section out?

14 A. Yes.

15 Q. And you wrote on the top line, Assistant
16 Professor at the University of Tennessee from 2013 until
17 now; correct?

18 A. Yes. Sorry.

19 Q. And on this page under Employment History, you
04:21PM 20 did not write down your employment at BJUT; correct?

21 A. I don't write any unregular appointment.

22 Q. My question was a little bit more specific.

23 In this section, you did not write down any
24 positions with BJUT; correct?

25 A. I not write here, but that not means I hide

1 that; okay?

2 Q. Again, the question was -- it was very
3 narrow -- in this section under Employment History, you
4 did not write down BJUT; correct?

5 A. I needed to tell you why I not list there. Is
6 that reasonable?

7 Q. Of course it is reasonable. I'm going to ask
8 you to hold on to that until redirect.

9 I'm going to now direct your attention to
04:22PM 10 Government's Exhibit 11-O. This is a translated version
11 of your resume; correct?

12 A. This is not my -- oh, let's see. Yeah, it's a
13 part of.

14 Q. You're viewing part of a translated file that
15 was recovered from a computer of yours; correct?

16 A. Uh-huh.

17 Q. And you authored the Chinese version of this
18 document; correct?

19 A. Yeah, this is the Chinese side of preparer, I
04:23PM 20 think.

21 Q. And at the top here, it says Hu Anming:
22 Professor of Institute of Laser Engineering, Beijing
23 University of Technology, and then --

24 MR. MC KENZIE: I'm sorry; can we -- I don't
25 want to not have a complete statement.

1 BY MR. MC KENZIE:

2 Q. -- advisor to Ph.D. students; correct?

3 A. Yeah, this CV is prepared by Beijing University
4 of Technology.

5 MR. MC KENZIE: Can we scroll down, please.

6 And let's go ahead and scroll the other way. Stop.

7 BY MR. MC KENZIE:

8 Q. And on this document, it says January 2012 to
9 September 2013, Distinguished Professor, Beijing

04:24PM 10 University of Technology, selectee of seventh cohort of
11 Beijing Overseas Talent Aggregation Project, short-term
12 program; correct?

13 A. Most correct. But I should say, like
14 distinguished professor, that's translated from Chinese
15 to English, that have a lot of sayings because, you
16 know, distinguishable in English means something very,
17 very excellent. But to the -- I think it probably
18 better explained as a guest professor.

19 MR. MC KENZIE: Will you please scroll down to
04:25PM 20 the next line.

21 BY MR. MC KENZIE:

22 Q. It says here September 13th, 2013, to present,
23 Special-Hired Professor, Beijing University of
24 Technology; correct?

25 A. Yes, special-hired professor means the

1 short-term plan, short-term guest professor.

2 Q. And right under that it says, November 2013 to
3 present, Assistant Professor, Department of Mechanical,
4 Aviation and Medical Engineering, University of
5 Tennessee, United States, or U.S.A.; correct?

6 A. Yes.

7 MR. MC KENZIE: All right. Now let's scroll
8 down a bit.

9 BY MR. MC KENZIE:

04:25PM 10 Q. And then it lists --

11 MR. MC KENZIE: Stop. Scroll up, please. I
12 want to see --

13 BY MR. MC KENZIE:

14 Q. Under Ongoing research projects -- correct?

15 A. Yeah.

16 Q. And it lists two projects; correct?

17 A. Yeah.

18 Q. The first project was from January 2014 to
19 December 2016; correct?

04:26PM 20 A. Yes.

21 Q. And that -- in that project, you served as a
22 principal investigator; correct?

23 A. Do you allow me to explain this?

24 Q. Of course, but let me just finish this line of
25 questioning and I'll give you an opportunity.

CROSS-EXAMINATION - ANMING HU

1 A. Yeah.

2 Q. It says principal investigator; correct?

3 A. Yes.

4 Q. Key project of Beijing Natural Science
5 Foundation; correct?

6 A. Yes.

7 Q. And it's on this document; correct?

8 A. Yes.

9 Q. And underneath it there is a second ongoing
04:26PM 10 research project listed; correct?

11 A. Yeah. I should say -- do you allow me to
12 explain?

13 Q. Please.

14 A. Okay. So those are the two Chinese -- in BJUT,
15 I have three Chinese research fund. So two listed here.
16 There is another one, a smaller one, from their
17 institute.

18 So BJUT tell me that those are the chances and
19 let me send a draft. They give me the money there. But
04:27PM 20 those are -- the money is other professor and institute
21 manage, and the student, of course, is under my
22 supervision. They do that.

23 So -- but, you know, when the Chinese translate
24 to English, it looks like those things are like I fully
25 commit with that, similar to what I did here at UTK. So

CROSS-EXAMINATION - ANMING HU

1 I won't imagine this -- you know, these I consider as a
2 collaboration.

3 Q. And you were listed as the principal
4 investigator; correct?

5 A. Those are -- the principal investigator is
6 similar as what I explained. I'm the collaborator.

7 Q. I'd like to direct your attention to
8 Exhibit 4-A, please. This is your business card;
9 correct?

04:28PM 10 A. This is a -- BJUT give me the card when I
11 travel there. Like, they make this name card for me.

12 Q. And they gave it to you; correct?

13 A. Yes, they give to me.

14 Q. BJUT gave this to you; correct?

15 A. Yes, BJUT give me.

16 Q. You didn't make it; correct?

17 A. It's not that I make that. So, that's the
18 reason, you know, they want -- look, I walk in there,
19 I'm a regular employee there, or regular professor
04:28PM 20 there.

21 MR. MC KENZIE: Could we see 4-B.

22 BY MR. MC KENZIE:

23 Q. This is the other side; correct?

24 A. Yeah, that's the same; same card.

25 Q. I'd like to direct your attention to what is in

CROSS-EXAMINATION - ANMING HU

1 evidence as Government's Exhibit 3-N, as in Nancy.

2 MR. MC KENZIE: Could we please scroll down so
3 we can see the signature.

4 BY MR. MC KENZIE:

5 Q. You signed this letter; correct?

6 A. Yes.

7 MR. MC KENZIE: Will you please scroll up.

8 BY MR. MC KENZIE:

9 Q. And you wrote this letter as part of a letter
04:29PM 10 of recommendation; correct?

11 A. Yes.

12 Q. And in this letter of recommendation, you
13 wrote, "I am a chair professor in Laser of
14 Institute" -- or excuse me -- "of Laser Engineering,
15 Beijing University of Technology." You wrote that line;
16 correct?

17 A. All those mean that's the professor, chair
18 professor, and a distinguished professor in Chinese
19 similar. That's all it means, not a regular.

04:30PM 20 Q. This is an English letter.

21 A. Yeah, that's the reason you think that meaning,
22 but I think it's another meaning.

23 Q. But you wrote this document; right?

24 A. That's right, I wrote, but --

25 Q. This is an English language document; correct?

1 A. This is English.

2 Q. And you wrote it in English; right? This is
3 not a translated document; correct?

4 A. Yeah, this is not translated, yes.

5 Q. And you wrote it; correct?

6 A. That's what I tell you is that's the professor
7 can also, depending on the age, they can translate it
8 into distinguished professor or chair professor. That's
9 what I told you.

04:30PM 10 Q. Okay.

11 A. Yeah.

12 Q. But you used the word "chair professor" here;
13 correct?

14 A. Yes. Like, this is a recommendation letter.

15 Q. Correct. But you did not use the phrase guest
16 professor; correct?

17 A. Yes, I didn't. But I tell you that's the
18 similar meaning.

19 Q. But the word here is chair professor, correct,
04:31PM 20 on the screen?

21 A. Yeah, that's correct.

22 Q. The next -- the next sentence says, "I have
23 taught special seminars for graduate students in the
24 Institute of Laser Engineering in the past four years;
25 correct?

1 A. Yeah, each year we go there, I give about
2 one-hour seminar.

3 Q. And the next -- the next sentence says, "I have
4 my own research group, including three Ph.D. students in
5 the same institute where Yu-" -- how do you pronounce
6 her name? Yu- --

7 A. Yuhua.

8 Q. -- "Yuhua studies." You wrote that; correct?

9 A. This one, I supervise those three Ph.D.

04:32PM 10 students, and those three Ph.D. students also come to
11 UTK as a visiting student.

12 Q. Then it says, "My group there is focusing on
13 superresolution nano manufacturing and printable
14 electronics." Correct?

15 A. Yeah, those three student working on that,
16 study on that.

17 Q. We'll leave that.

18 And you wrote this document; correct?

19 A. Yes.

04:32PM 20 Q. I'd like to direct your attention to
21 Government's Exhibit 3-O.

22 This is an email that you wrote; correct?

23 A. Yes.

24 Q. This was written in English; correct?

25 A. This is, again, the recommendation letter. As

CROSS-EXAMINATION - ANMING HU

1 a professor, we want to help with the student.

2 That's the daily work. Almost every week and every

3 month I write to help a lot of students, yes.

4 Q. You wrote this email in English; correct?

5 A. Yes.

6 Q. And you wrote, "I am an assistant professor in

7 University of Tennessee, Knoxville. I am also a chair

8 professor at Beijing University of Technology."

9 Correct?

04:33PM 10 A. Yes. I already explain what that mean; right?

11 Q. I would like to direct your attention to your

12 contracts with the Beijing University of Technology.

13 You testified that you did sign a contract in

14 2000- -- in or about 2016; correct?

15 A. Yes, I think I said that. Can you show that?

16 Q. I don't have it ready to show because I thought

17 you would agree to that one, that you signed it and that

18 it expired in 2018.

19 A. I hope you can show that. I want to confirm so

04:35PM 20 I can see if it's the same thing.

21 Q. I'm going to pull up the English version of it

22 so the jury can follow along, but I will pull up the

23 government's exhibit of the English version of the

24 signed 2016 contract. And that is Government's

25 Exhibit 11-Q.

CROSS-EXAMINATION - ANMING HU

1 MR. MC KENZIE: Could we just scroll down to
2 the bottom.

3 BY MR. MC KENZIE:

4 Q. So in or about April of 2016, you signed a
5 contract with Beijing University of Technology; correct?

6 A. Yes.

7 Q. And this -- this contract had an expiration
8 date; correct?

9 A. Yes.

04:35PM 10 Q. And that expiration date was --

11 MR. MC KENZIE: Can we scroll up to see the
12 exact date.

13 BY MR. MC KENZIE:

14 Q. December 31st, 2018; correct?

15 A. If you remember, the government linguist
16 already point out this is -- contract have a condition.

17 Q. I'm just asking about the years of when this
18 expires. December 31st, 2018 is the term of the
19 contract. This is the longest possible date that this
04:36PM 20 contract could go; correct?

21 A. Yes.

22 Q. So after December 31st, 2018, this contract is
23 no longer valid; correct?

24 A. Even this one, I can tell you because of --
25 they consider each year have a condition. I never

CROSS-EXAMINATION - ANMING HU

1 satisfy that condition. That you will consider? Your
2 linguist already confirmed that.

3 MR. MC KENZIE: Your Honor, I'm going to ask
4 that you instruct the witness to answer my question.

5 MR. LOMONACO: Your Honor --

6 THE COURT: Go ahead and ask the next question.

7 BY MR. MC KENZIE:

8 Q. I'm going to direct your attention to
9 Government's Exhibit 7-K. This is a Chinese language
10 contract; correct?

04:37PM

11 A. Yes.

12 MR. MC KENZIE: Can we scroll down to the
13 bottom. I think it's the second to the last page. I
14 think the second to the last page is blank. No, one
15 more down.

16 BY MR. MC KENZIE:

17 Q. And the bottom here, it's in Chinese, but the
18 bottom section there is where the parties to the
19 contract would sign the contract; correct?

04:37PM

20 A. This one, I think, was -- already says is
21 invalid because there is no sign. And also on the first
22 page, that's has to be signed in China; right?

23 Q. My question is: This is an unsigned document;
24 correct?

25 A. Can you repeat that? What's it means "unsigned

1 document"?

2 Q. There is no signature on this page; correct?

3 A. Yes.

4 Q. You did not sign this document; correct?

5 A. No.

6 Q. And neither did anybody else; correct?

7 A. Yes.

8 Q. There is no signature on this page; correct?

9 A. Yes.

04:38PM 10 Q. All right. Now I'd like to direct your
11 attention now to 7-L. This is also a Chinese language
12 document; correct?

13 A. Yeah.

14 Q. And this document was recovered from an
15 external hard drive that you owned; correct?

16 A. Yeah. As we already discuss --

17 Q. My question is very narrow.

18 And on this document -- on this document, you
19 signed this document. I'm not asking about any terms of
04:39PM 20 the document. I'm not asking whether anyone else signed
21 it. You signed this document; correct?

22 A. I signed this at my office at UTK.

23 Q. And then in order to sign this document, you
24 needed to print off this page; correct?

25 A. Yes.

CROSS-EXAMINATION - ANMING HU

1 Q. And then you signed the paper; correct?

2 A. Yes, I tell you signed this in the UTK.

3 Q. And then you scanned the document; correct?

4 A. Yes.

5 Q. And then you saved it onto a hard drive;
6 correct?

7 A. Yes.

8 Q. And you kept it -- and you kept this document
9 for your records; correct?

04:39PM 10 A. Can you -- can you allow me to explain this?

11 Q. You'll get an opportunity to explain that on
12 redirect examination.

13 But we can agree that on this document, over
14 here (indicating), there is no signature from another
15 party on this page; correct?

16 A. Do you agree there -- we can check the first
17 page?

18 Q. My question is: This is not signed by anyone
19 but you; correct? BJUT didn't sign this document that's
04:40PM 20 in evidence; right?

21 A. Yes.

22 Q. Okay. Now I'd like to direct your attention to
23 Government's -- actually, what I'd like to do is show
24 you Defense Exhibit 147, and I don't think -- I don't
25 know how to zoom this out.

CROSS-EXAMINATION - ANMING HU

1 You created this document; correct?

2 A. Correct.

3 Q. And this document reports that -- your travel
4 outside of -- or to China; correct?

5 A. That's correct.

6 Q. And after 2017, you did not go back to China;
7 correct?

8 A. Yes.

9 Q. I'd like to show you Government's Exhibit 11-F.

04:41PM 10 MR. LOMONACO: F?

11 MR. MC KENZIE: Yes.

12 BY MR. MC KENZIE:

13 Q. I'm going to show you --

14 MR. MC KENZIE: Can we zoom in on the first
15 message sent at 10/10/2019 at 9:45 p.m.

16 BY MR. MC KENZIE:

17 Q. Did you receive this message -- this is the
18 English translation -- (as read) "Professor Hu, the
19 Front Line of Laser Manufacturing" -- or "the class

04:42PM 20 Front Line of Manufacturing was started last year and
21 the system shows you are the lecturer. You need to give
22 grades to this class's students. I won't assign you to
23 teach this class this year. How about you compose a
24 test and send it to the students, and give them a grade?
25 Will that work?" Did you receive that message?

CROSS-EXAMINATION - ANMING HU

1 A. Yes.

2 Q. Did you respond that day and say, "I will send
3 you the test tomorrow"?

4 A. Yes.

5 MR. MC KENZIE: Your Honor, I ask that the
6 witness --

7 BY THE WITNESS:

8 A. Will you allow me to explain this?

9 BY MR. MC KENZIE:

04:43PM 10 Q. Sure.

11 A. Okay. So I didn't travel back to China. Those
12 students -- my seminar, as I mentioned. Because I not
13 back to there, they see whether you can give their test
14 so those student can receive the grade. So I spent
15 something like half hour to make their test because I
16 every year do this. Those students answer questions,
17 email me. I give them grade. That's the background. I
18 hope you can understand this. Thank you.

19 Q. On --

04:43PM 20 A. Yes.

21 Q. As a scientific researcher --

22 A. Yes.

23 Q. -- sometimes you find new technology that you
24 seek to patent; correct?

25 A. Yes.

CROSS-EXAMINATION - ANMING HU

1 Q. And you're familiar with the patent process;
2 correct?

3 A. Yes. Oh, I should say -- you ask -- I don't
4 have familiar with U.S. because I --

5 Q. You're not familiar with the patent process?

6 A. Because of the -- I only do the technical
7 disclosure. I not finish the -- any U.S. patent yet
8 because that's a lot of steps. I mean, you need to hire
9 a lawyer. And I only release my technique to the
04:44PM 10 research foundation.

11 Q. But you're aware when information that you have
12 researched is being submitted for a patent; correct?

13 A. It's not for patent. It's for the disclosure.
14 It is needed. UT Research Foundation need to review.

15 Q. I think that we may be talking about two
16 different things, and perhaps I'll ask a clearer
17 question. I'm not talking about the University of
18 Tennessee right now.

19 A. Yeah.

04:45PM 20 Q. I'm just talking about, you are aware that you
21 have been named an inventor on patents before; correct?

22 A. Yes, I have the one in Japan patent.

23 Q. And you understand that patents give your
24 inventions legal protections; correct?

25 A. Yeah, those cover the different patents. So

1 sometimes that's just there to protect what we
2 published.

3 Q. And you are aware that the United States issues
4 patents; correct?

5 A. I know that.

6 Q. You are aware that China issues patents;
7 correct?

8 A. Yeah.

04:45PM 10 Q. And I'm sure you could get patents in Europe or
anywhere in the globe; correct?

11 A. Different country have a different system, but,
12 I mean, their patent have different categories.

13 Q. And it's certainly not illegal to get a patent
14 in China if you live in the United States; correct?

15 A. I really don't know.

16 Q. And receiving a patent is -- it's important to
17 the university; correct?

18 A. I don't know the importance for university or
19 not. I cannot answer this.

04:46PM 20 Q. Being listed on a patent is important for a
21 researcher; correct?

22 A. It's for the -- if I'm working on the technical
23 side, it's important, but if I working on fundamental,
24 publishing is more important.

25 Q. And in 2018 -- well, actually, on

1 September 20th, 2017, the Beijing University of
2 Technology applied for a patent in China with you listed
3 as the inventor; correct?

4 A. Can you show something? I don't know
5 their -- I cannot remember that date; right?

6 Q. Are you aware as to whether or not the Beijing
7 University of Technology submitted a patent application
8 listing you as the applicant in September of 2017?

9 A. If you can put that, maybe I can. Because of
04:48PM 10 that date, I cannot remember.

11 Q. Was the patent for a laser method for preparing
12 a copper-based flexible wearable pressure sensor?

13 A. This is -- the name I can't remember. That's
14 the BJUT student send me that.

15 Q. But in the application, did Beijing University
16 of Technology list you as the inventor?

17 A. Student list me as supervisor, as their mentor,
18 yes.

19 Q. Similarly, in January of 2017, Beijing
04:48PM 20 University of Technology applied for a patent and also
21 listed you as an inventor; correct?

22 A. I can tell you it's totally 12 applications.
23 And those 12 applications are already published. That's
24 a published paper patent. Already published. I already
25 tell the UTK, report it in my annual report.

REDIRECT EXAMINATION - ANMING HU

1 Q. 12 times the university -- or the Beijing
2 University of Technology applied for patents listing you
3 as the inventor?

4 A. Reading this, you know, that's only the 12
5 papers. And it's only listed on the papers. And
6 finally they have -- the one is issued. All the other
7 is declined.

8 MR. MC KENZIE: Your Honor, I have no further
9 questions.

04:49PM 10 THE COURT: Thank you.

11 Any redirect?

12 REDIRECT EXAMINATION

13 BY MR. LOMONACO:

14 Q. When you received an email from --

15 MR. LOMONACO: Put 11-F up, if you can, please.
16 Switch over to the --

17 BY MR. LOMONACO:

18 Q. Do you recall the email that the prosecutor
19 pointed out that you received about assigning a test
04:50PM 20 score?

21 MR. LOMONACO: Is that 11-F? It's not the
22 email. What's the email with the -- about the --
23 assigning the test score? He wasn't there.

24 MR. MC KENZIE: It's --

25 MR. LOMONACO: Excuse me. I'm sorry. I'm

REDIRECT EXAMINATION - ANMING HU

1 looking right at it, I guess. I thought it was an
2 email, but it's a text message.

3 BY MR. LOMONACO:

4 Q. Okay. Professor Hu, you were in the United
5 States or where were you in 10/10/19?

6 A. That's in the University of Tennessee.

7 Q. Do you know who you were referring to and
8 talking to during this time?

9 A. This is the one teacher from the BJUT, yeah.

04:51PM 10 I'm not a very familiar with this person, honestly.

11 Q. Okay. But they said that you started -- "The
12 class Front Line of Laser Manufacturing was started last
13 year and the system shows that you are the lecturer."
14 Were you in that class the year before that?

15 A. No.

16 Q. Is that -- how did that end up you being the
17 lecturer?

18 A. The BJUT try to put those international
19 visiting professor to teach those classes. A seminar,
04:52PM 20 let's say.

21 Q. What kind of --

22 A. BJUT, they want to do the international
23 visitor.

24 Q. Visit- -- international what?

25 A. Visiting professor, let's say.

1 Q. Visiting professor?

2 A. Yes.

3 Q. So they wanted a visiting professor; is that
4 what you're saying?

5 A. Yeah, they wanted -- visiting student --
6 visiting professor -- sorry -- to give their
7 international -- I mean, Eng- -- the lecture in English.
8 So I think they put my name and with one professor from
9 UK to be potential lecturers.

04:52PM 10 Q. Okay. So you hadn't given a lecture in that
11 class before?

12 A. For this, the title Front Line, I didn't teach
13 that at any times.

14 Q. And when was the last time you had a class in
15 Beijing University?

16 A. That's in 2017.

17 Q. 2017?

18 A. Yeah.

19 Q. So when you got this email, what -- what did
04:53PM 20 you do?

21 A. I do is the --

22 Q. Or this text message. I'm sorry.

23 A. Yeah. When I got this text message, I saw that
24 those students already registered for the class. If
25 they -- if I don't agree, basically will fail.

REDIRECT EXAMINATION - ANMING HU

1 Basically this class -- I, mean they going to get failed
2 for that class.

3 Q. So they had a class with no teacher?

4 A. No teacher. They expected international
5 professor come to teach at a certain time.

6 Q. All right. So they wanted you to give grades
7 to this class?

8 A. Yeah, that's the -- the message mentioned.

9 They ask if I can -- because basically this is a

04:53PM 10 seminar. Even I go there, that's a one-hour lecture.

11 And if a student come, they just get the credit. It's a
12 half-point credit. They encourage students to attend
13 their international collaborations.

14 Q. So it's a one-hour class?

15 A. Yeah, it's basically a one-hour.

16 Q. One time?

17 A. One time.

18 Q. Okay. So you agreed, "Sure, I'll do it"?

19 A. Yes, I want to help those students.

04:54PM 20 Q. And you wanted to know how many were enrolled,
21 how many students. You sent a test, and then you graded
22 the test?

23 A. Yes.

24 Q. How much did you charge for that?

25 A. I not get any money. This is for volunteer.

1 Q. Okay.

2 A. Because of the -- if I go there, I probably can
3 get a little bit of compensation.

4 Q. But you didn't get paid. Did you ask for
5 compensation?

6 A. No.

7 Q. Now, BJUT issued 12 patents, and you said only
8 one was -- one was actually granted; is that right?

9 A. Yeah. So for those one, you know, submit their
10 application does not mean that they will be granted.

04:55PM

11 That will take, like, two years to check. They will
12 post it. That's really -- you know, every people can't
13 know that. This is open information.

14 If you knew my name and go to Google, you can
15 find it there. You can gather those informations. They
16 will post it, other people see, oh, no, this is not new.

17 Basically this is based on the papers. And I
18 gather the one is one of my student, you know, because
19 that's a student and they have to put it there,

04:55PM

20 supervisor name there. I not involved. I help the
21 student -- I really help the student to correct their
22 language, and I -- but as I answer their -- I'm not an
23 expert to apply for the patent.

24 So what I write of the patent, I try in U.S.
25 one time. It fail.

1 Q. Did you enjoy teaching?

2 A. Usually I should say I like it, but my English
3 is -- I should say, you know, teaching is well over my
4 challenge. So when I teach at UTK, that's the -- in the
5 very beginning, I get the pretty -- you know, in the
6 past 20 years, I get a lower score, and then within
7 three years, I improve a lot.

8 MR. LOMONACO: Can we see 11-O.

9 BY MR. LOMONACO:

04:57PM 10 Q. All right. This is a -- do you recognize this
11 Exhibit 11-O?

12 A. Yes.

13 Q. And who prepared this?

14 A. I think this is a -- this is the BJUT
15 prep -- prepare that and they list on the website.

16 Q. And can you explain what a chair professor or a
17 chair position is at BJUT?

18 A. Yeah. The chair professor mean --
19 corresponding to the Chinese meaning is a certain period
04:57PM 20 and for the certain title. They give their -- it's kind
21 of their -- I don't know the words I use it properly.
22 It's honorable, just like kind of a reputation. It's
23 not their really commitment.

24 You know, like my supervisor in Harvard, he
25 probably have those over 20. I mean, different

REDIRECT EXAMINATION - ANMING HU

1 university give that. They used to call him chair
2 professor. But he probably only go there one time, give
3 a lecture one time.

4 Q. How much of this work that you did just at
5 BJUT, Beijing University, how much of this work did you
6 do while you were -- or during your academic year at
7 University of Tennessee? Can you predict or give us an
8 estimate of the percentage of time you spent during your
9 school year at UT helping out at BJUT?

04:58PM 10 A. Probably maximum less than five percent.

11 Q. Five percent of a hundred percent? You're
12 giving a hundred percent at UT; right?

13 A. Yeah, yeah.

14 Q. And according to the handbook, how much can
15 you --

16 A. 20 percent.

17 Q. 20 percent?

18 A. Yes.

19 Q. Before the handbook says it's a conflict?

04:59PM 20 A. Yes, or I have to disclose.

21 Q. And how much work can you do at Beijing
22 University during the summer on your time off before
23 it's a conflict?

24 A. If it was within the three months, that's what
25 I understand, that's not trigger any conflict of

1 interest.

2 Now, another thing is: I cannot focus on.

3 Those nine months, I not doing anything. I just in the
4 summer back to China. I don't want to mention it like
5 that.

6 So what I do, those international collaboration
7 or short-term plan after I satisfy UTK requirement.

8 Every year they will review me. If I have the teaching
9 research or service, if I not match the UTK requirement,

04:59PM 10 my department that hired me will talk to me, say,
11 "Anming, you need to improve. You're hired by UTK. You
12 have to satisfy UTK requirement."

13 I never get any warning in the past before the
14 tenure, even at the tenure, because from the tenure
15 review, they give me their -- over expectation, yeah, or
16 higher-than-expectation evaluation.

17 Q. So, for whatever reason that you didn't put
18 your part-time summer job over at Beijing University and
19 list it on the conflict of interest form, for whatever
05:00PM 20 reason, it's not on there --

21 MR. MC KENZIE: Your Honor --

22 BY MR. LOMONACO:

23 Q. -- did any of it --

24 MR. MC KENZIE: Your Honor, I'm going to object
25 and remind counsel that he's doing direct examination,

REDIRECT EXAMINATION - ANMING HU

1 not leading questions like cross-examination.

2 MR. LOMONACO: I'm just getting to the point of
3 asking my question.

4 THE COURT: Go ahead and ask it. Maybe without
5 all the preparatory comments.

6 MR. LOMONACO: Okay.

7 BY MR. LOMONACO:

8 Q. Was there any reason that had to do with the
9 NASA restriction --

05:01PM 10 A. No.

11 Q. -- for your answer on that form?

12 A. So when I started to fill in that conflict of
13 interest, that is 2013. You know, as I testified, I
14 started NASA from the 2015, February. That's when my
15 first there try. Even that try, there was no
16 information about the China restriction and assurance.
17 First time I only get is from the Drew Haswell. He told
18 me like that, yes.

19 Q. And when you had visiting students that the
05:01PM 20 prosecutors went over with you here a little while
21 ago -- and they were from China?

22 A. Yes.

23 Q. And even Beijing University?

24 A. Yes.

25 Q. When they were here, you were doing UT work

1 here, weren't you --

2 A. Yes.

3 Q. -- with those students?

4 A. Yes.

5 Q. You were benefitting UT?

6 A. Yes.

7 Q. And nobody ever complained about that?

8 A. Department give the -- department and the
9 college give me the very good evaluation. There are

05:02PM 10 things that significantly help my performance because,
11 you know, when I send the tenure package to the UT, they
12 didn't check why within the five years I have give
13 publications. In fact, those visiting students
14 contribute 24 papers. That's almost half.

15 If -- without those visiting students, my
16 publication will be little bit over average. But I'm
17 the -- one of the top publisher in my colleagues. Not
18 in my department. Probably I'm on the top on my
19 department.

05:02PM 20 So that's really -- department have and both
21 the college committee, before they report it to the
22 provost, they think those international students
23 significantly contribute to the UTK project.

24 Q. You wanted to explain why you didn't disclose
25 your appointment on the work on your tenure package. Do

1 you have -- do you want to explain to the jury why you
2 didn't put it in there?

3 A. Yes. So tenure package is the package. I
4 mean, the -- each item we have to have. But inside the
5 contained is no requirement of a format. It depends on
6 each faculty feeling. You can decide if feeling. For
7 example, CV. So whatever you put. So what I understand
8 is the CV, we cannot leave a gap. So I reported in
9 2014, then I list 2016, what are you doing in 2015? So
05:03PM 10 when I say --

11 Q. Excuse me. So the jury understands, when you
12 say "gap," you mean a gap between the times that you
13 report something?

14 A. Yes. If I report each year my appointment,
15 there should be considered consistent. And I not list
16 that BJUT employment because I think that that's not a
17 regular employment.

18 But both the CV and the package, we already
19 show you, the juror -- I mean, I posted -- I report BJUT
05:04PM 20 many times in this package. I believe it's over ten
21 place, same file, at least that BJUT over ten different.
22 Even in the CV, I already list the BJUT, visiting
23 students and --

24 Q. Was it required to report everything?

25 A. So, honestly, I should have say, those, we can

1 decide it what you report. But I don't want to hide
2 that. So, you know, like I do -- the CV is on the
3 bottom, last file. So, my CF, if I report everything,
4 there could be 70 page. I don't want to be -- this is
5 already over nearly 200 page.

6 So some professors, like today you see the
7 Dr. Babu, if he's CV, if you want to put everything,
8 probably 200, 300 page. So that's the reason each of
9 the faculty, they usually have their different CV for
10 the different purpose.

05:05PM

11 You know, like NSF, they only allow the two
12 page. Like NASA, only allow the one page. It's hard
13 you really list everything.

14 But you list this thing. Probably they say you
15 miss that thing. That's really for the faculty. You
16 know, I think that those -- I didn't gather any
17 guideline to tell me what you have to list, or someone
18 tell me, no, I mean, you have to list something, if like
19 that.

05:06PM

20 Q. Were you trying to hide BJUT from anybody when
21 you --

22 A. No.

23 Q. What's -- sorry to cut you off. Do you want
24 to --

25

REDIRECT EXAMINATION - ANMING HU

1 (Defendant's Exhibit 112 was marked for
2 identification.)

3 MR. LOMONACO: Let's quickly go to Exhibit 112,
4 please.

5 BY MR. LOMONACO:

6 Q. Oh. Can you recognize this letter here?

7 A. Yeah, this the -- this is the invited letter to
8 the postdoctoral Delong Ma from BJUT. This is the cover
9 letter from provost from the UTK. Professor Susan
05:06PM 10 Martin is -- this is previous provost before the
11 Professor John Zomchick.

12 Q. So this is one of your students from BJUT
13 becoming a visiting student at the University of
14 Tennessee?

15 A. Yes.

16 MR. LOMONACO: Can we move that in as
17 Exhibit 112, Your Honor, please?

18 THE COURT: So admitted.

19 (Defendant's Exhibit 112 was received into
05:07PM 20 evidence.)

21 BY MR. LOMONACO:

22 Q. And his name is Delong Ma; is that right?

23 A. Yes.

24 Q. Are you listed in this, his CV, as a
25 supervisor?

REDIRECT EXAMINATION - ANMING HU

1 A. Yes. So my name is listed there as the
2 supervisor of him in this Institute of Laser
3 Engineering, Beijing University of Technology.

4 Q. So that's how you got the contact started to
5 get him to UT; correct?

6 A. Yes. This one I send it to the department
7 head, and the department head send to college team and
8 then to provost office.

9 Q. And UT was happy to get him?

05:08PM 10 A. Each of the -- the one page before, department
11 head first sign, college dean sign, and the provost
12 sign. Provost will sign -- will sign the invited letter
13 to invite these people because they're treated -- with
14 the doctor, they're treated as a visiting professor.

15 (Defendant's Exhibit 113 was marked for
16 identification.)

17 MR. LOMONACO: Let's go to 113 quickly.

18 BY MR. LOMONACO:

19 Q. Is this a similar letter?

05:08PM 20 A. This is for another visiting student. It's
21 called Ma Ying. Same family name but different person.

22 Q. And we have the same situation with her as we
23 did the previous student?

24 A. For the visiting student, just the department
25 head approve it's okay. So I submitted Ma Ying's CV and

REDIRECT EXAMINATION - ANMING HU

1 the financial letter to the department head. Department
2 head approve that, sign that, and that's
3 the -- forwarded to UTK to process their visa
4 application.

5 MR. LOMONACO: Your Honor, I'd like to move in
6 113, please.

7 THE COURT: So admitted.

8 (Defendant's Exhibit 113 was received into
9 evidence.)

05:09PM 10 (Defendant's Exhibit 114 was marked for
11 identification.)

12 MR. LOMONACO: And 114, please, if we could see
13 that.

14 BY MR. LOMONACO:

15 Q. Is this her resume?

16 A. Yeah, this is the resume I submitted to
17 Dr. Matthew Mench, my department head.

18 Q. And you submitted it on her behalf; is that
19 what you --

05:09PM 20 A. Yes.

21 Q. As part of the application to get her to be a
22 visiting student?

23 A. Yes.

24 Q. Are you listed at -- in this? From 2014,
25 you're listed as advisor --

REDIRECT EXAMINATION - ANMING HU

1 A. Yes.

2 Q. -- at BJUT?

3 A. Correct.

4 Q. Okay. Thank you.

5 MR. LOMONACO: I'd move to admit that one, too,
6 Your Honor, please.

7 THE COURT: So admitted.

8 (Defendant's Exhibit 114 was received into
9 evidence.)

05:10PM 10 MR. LOMONACO: That's all I have, Your Honor.

11 THE COURT: Thank you.

12 Any recross?

13 MR. MC KENZIE: No, Your Honor.

14 THE COURT: All right. Thank you.

15 Professor Hu, you can return to counsel table.

16 And, jury, appreciate putting in a long day, and just
17 hold on just a moment and let me consult with counsel.

18 (A discussion was had off the record amongst
19 the Court and Counsel.)

05:12PM 20 THE COURT: Thank you.

21 Again, thanks not only from the Court, from
22 everyone involved in this case for putting in a full day
23 and staying. We usually try to leave a little earlier
24 on Friday. But we wanted to go ahead and complete this
25 witness's testimony.

1 In discussing with counsel, the defendant may
2 or may not have additional witnesses. But it seems
3 probable that you'll probably either get the case on
4 Monday or we'll at least proceed to closing arguments at
5 some point on Monday.

6 So, now, we told you in the past we weren't
7 going to have court on Tuesday, and I know -- I think
8 some of you have made arrangements to do things on
9 Tuesday. So even if you get the case Monday, my intent,
05:13PM 10 at least at this point, would be, just like breaking on
11 Friday and coming back Monday, we would break Monday
12 afternoon and come back Wednesday. So it may be that
13 you -- you know, depending on when you get the case,
14 depending on how deliberations are, you may not be here
15 the entirety of next week, but certainly it wouldn't be
16 beyond that time period, and probably it will be shorter
17 than the time period we've talked about.

18 So I'm going to let you go, but I'll talk to
19 you about a couple things. We may be near the end of
05:13PM 20 the proof. However, we may not -- the proof may not be
21 done. So, as I've stated every afternoon, continue to
22 keep an open mind as you hear all the evidence in this
23 case. Don't discuss the case with -- among yourselves
24 until, you know, you've received the case for
25 deliberations at some point next week; perhaps Monday.

1 Don't discuss the case with anyone else, including
2 family or friends until the case is over.

3 Also, in terms of any newspaper reports,
4 media -- other media reports, internet reports or
5 otherwise, it's obviously critically important that you
6 continue to adhere to my instruction of not reading
7 anything about this case or having anything about this
8 case brought to your attention.

9 Again, you heard me say on Monday, I believe it
05:14PM 10 was, that, you know, information that's on the internet,
11 available through social media, or even newspaper
12 articles or other media reports could be incomplete,
13 could be inaccurate, or might not simply track the
14 evidence that is being presented to you in this
15 courtroom, and it's important that your deliberations be
16 focused exclusively on the evidence that is presented in
17 the four walls of this courtroom and that you not be
18 influenced in any way by anything or anyone or any
19 materials or reading or research outside the confines of
05:15PM 20 this courtroom. So that's very important, particularly
21 at this stage of the proceeding. So please continue to
22 adhere to that instruction.

23 So we're going to have you go ahead and report
24 at the regular time. We're going to actually meet a
25 little bit earlier on Monday and discuss some things

1 that are necessary preparation, you know, for when you
2 get the case, whether it's Monday or otherwise. So it's
3 possible we may not start right at 9 o'clock. So don't
4 rush if you're running a few minutes late.

5 But I'm going to say report at the regular
6 time, and then you'll get further instructions when you
7 get here about the time that we'll actually start.

8 I believe you've got instructions about
9 reporting to a different location in the morning. Is
05:15PM 10 that right? Are people aware of that?

11 Why don't we -- when we go back to the
12 courtroom, Ms. Norwood will check with you because I
13 think another judge is having another trial and there
14 might be some orientations going on. So let's clear
15 that up before you leave the jury -- the jury room.
16 We'll make sure we know where you're reporting. So go
17 ahead and report between 8:45 and 9:00, but it might be
18 a little after 9:00 or 9:30 when we bring you into the
19 courtroom. But we'll keep you advised of that when you
05:16PM 20 come here on Monday.

21 Again, you're excused for the weekend. Have a
22 nice and pleasant weekend, and on behalf of everyone
23 involved, thank you very much for your attention and
24 patience throughout this first week of trial. The jury
25 is excused.

1 (Jurors excused from the courtroom.)

2 THE COURT: All right. Please be seated.

3 Let's talk about a couple of things before we break.

4 Mr. Lomonaco, I had you -- Defendant's 2 was an
5 annual activity report that you moved into evidence, and
6 you also showed Defendant's 3, which I think was a
7 subsequent annual activity report. I'm not sure that
8 was moved into evidence. So to the extent it wasn't, I
9 assume you want it moved into evidence.

05:17PM 10 MR. LOMONACO: Yes, Your Honor.

11 THE COURT: There is no objection. So the
12 record is clear, we'll admit Defendant's 3.

13 (Defendant's Exhibit 3 was received into
14 evidence.)

15 THE COURT: I would like -- as I discussed at
16 side conference, you did receive during the lunch hour a
17 draft of the jury charge and verdict form. I'm not
18 going to take it up now because you probably haven't had
19 time to look at it. So look at that definitely over the
05:17PM 20 weekend, and let's plan to start court at 8:30 Monday so
21 we can at least begin a discussion of the jury charge
22 and see where we are. Obviously if there is no
23 additional proof, we might finish the charge conference
24 and we might interrupt it with additional proof.

25 MR. MC KENZIE: As a reminder, Your Honor, that

1 the elevators need to be turned on early so we can get
2 up here at 8:30. They have been turned on at 8:45.

3 THE COURT: Don't arrive here before 8:30. Try
4 to get here 8:25 or something, but we'll try to convene
5 at 8:30 for the charge conference. If that changes over
6 the course of the weekend, we'll send you an email, but
7 I'd like to plan to start discussing the jury charge
8 draft at 8:30.

9 In that regard, Mr. Lomonaco, just to remind
05:18PM 10 you, as I remind defense counsel, one of the jury
11 charges relates to the defendant's theory, you know,
12 "Basically the defendant's theory is..." If you would
13 just be prepared. We usually don't ask you for any
14 particular verbiage until the end of the case. So you
15 don't have to -- just be prepared. Give that some
16 thought. Some -- as you know, sometimes defendant's
17 counsel don't want to include a defense theory charge,
18 just leave that for argument; sometimes they do. It's
19 not intended to be a two-page closing argument. It's a
05:19PM 20 succinct summary of the defendant's theory. So give
21 that some thought as well as you look through the jury
22 charge draft.

23 MR. LOMONACO: Yes, sir. I take it you emailed
24 it to us.

25 THE COURT: Yes, we emailed that to you over

1 the lunch hour. So you should have it when you get back
2 to your office.

3 The defendant filed -- where is it? Here it
4 is.

5 The defendant filed, I think over the lunch
6 hour --

7 MR. LOMONACO: I'm sorry, Your Honor, if I
8 didn't tell you that. It's in support of our --

9 THE COURT: It's styled Motion to Dismiss to
05:19PM 10 Avoid For Vagueness, but should I interpret that as
11 written argument in support of your Motion for Directed
12 Verdict?

13 MR. LOMONACO: Yes, sir. Yes, sir.

14 THE COURT: And I assume, once we do close all
15 the proof, you would renew that motion on the same
16 grounds?

17 MR. LOMONACO: Yes, sir.

18 THE COURT: So I don't know if the government
19 has seen this. If you want to respond in writing in any
05:20PM 20 fashion, I guess you'll need to do so before court
21 Monday morning so we can take a look at it.

22 MR. ARROWOOD: Yes, Your Honor. Thank you.

23 THE COURT: I'm not sure it -- I mean, it
24 somewhat tailors defendant's argument. I just skimmed
25 it, and I think it raises some of the points that were

1 raised in the previous motions that government counsel
2 referenced in opposition to the Motion for Directed
3 Verdict.

4 But I am interpreting this, based on what we're
5 saying now, as not a new Motion to Dismiss but a brief
6 in support of the Motion for Directed Verdict.

7 MR. LOMONACO: Yes, Your Honor.

8 THE COURT: Thank you for that.

9 All right. Let's talk a little bit in
05:20PM 10 anticipation of the proceeding to closing arguments on
11 Monday. I have some thoughts about length of time, but
12 let's start with the government.

13 Have you had any thoughts -- maybe finishing a
14 little earlier than you anticipated, but any initial
15 thoughts right now on time frame for closing arguments
16 inclusive of rebuttal?

17 MR. ARROWOOD: Your Honor, I think we could get
18 it done in an hour, assuming I want the same amount of
19 time that defense counsel has, but I think we can do it
05:21PM 20 in an hour.

21 THE COURT: 45 minutes and then 15 minutes for
22 rebuttal, or something like that? 40/20?

23 Does that sound sufficient, an hour,
24 Mr. Lomonaco?

25 MR. LOMONACO: Yes, Your Honor.

1 THE COURT: So let's plan on that. If you come
2 in on Monday and say after you're preparing for them, "I
3 think I need an hour and ten minutes," I'll be a little
4 flexible on that. We'll look at keeping in that scope.
5 Again, I may give you a little leeway if you feel you
6 need an extra five or ten minutes.

7 Okay. That's what I had. Does anybody else
8 have anything?

9 MR. MC KENZIE: No, sir.

05:21PM 10 MR. ARROWOOD: Nothing from the government.

11 THE COURT: So 8:30 charge conference. If
12 there is any additional proof, we will take that. If
13 not, we will finish the charge conference and allow the
14 parties to rest in front of the jury and then go right
15 into closing arguments.

16 As we've noted at sidebar, you know, we had
17 already told the jury that we were not having court on
18 Tuesday. So I think even if we get to closing
19 arguments, they will get the case -- they would probably
05:22PM 20 get the case sometime Tuesday if there is no additional
21 proof -- I'm sorry -- Monday if there is no additional
22 proof.

23 But if for some reason we start deliberations,
24 my intent, as of now, would be just to -- you know, if
25 we -- if the deliberations have just started or are not

1 finished or are still ongoing, we would break end of day
2 Monday and come back Wednesday, just like we would do if
3 we started deliberations today and broke, we would break
4 until Monday.

5 So I think in light of the fact we told the
6 jury all week that there would not be court on Tuesday,
7 you know, unless for some reason that needs to change,
8 that's the Court's intent right now, just so everybody
9 knows. Okay?

05:22PM 10 All right. Everyone have a pleasant weekend.
11 I know there will be work to be done, but we'll see
12 everybody back here at 8:30 on Monday.

13 Court is adjourned.

14 (Which were all the proceedings had and
15 herein transcribed.)

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C-E-R-T-I-F-I-C-A-T-E

STATE OF TENNESSEE

COUNTY OF KNOX

I, Teresa S. Grandchamp, RMR, CRR, do hereby certify that I reported in machine shorthand the above proceedings, that the said witness(es) was/were duly sworn; that the foregoing pages were transcribed under my personal supervision and constitute a true and accurate record of the proceedings.

I further certify that I am not an attorney or counsel of any of the parties, nor an employee or relative of any attorney or counsel connected with the action, nor financially interested in the action.

Transcript completed and signed on Wednesday, June 30, 2021.



TERESA S. GRANDCHAMP, RMR, CRR
Official Court Reporter